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Public Service Commission

August 11, 2010

VIA ELECTRONIC FILING

The Honorable Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Comments of the Florida Public Service Commission in WC Docket No. 10-90, Connect America Fund; GN Docket No. 09-51, A National Broadband Plan for Our Future; and WC Docket No. 05-337, High-Cost Universal Service Support

Dear Ms. Dortch:

Forwarded herewith are comments of the Florida Public Service Commission in the above dockets regarding the national broadband plan and reform of the high-cost universal service programs.

Greg Fogleman at (850) 413-6574 is the primary staff contact on these comments.

Sincerely,

/ s /

Cindy B. Miller
Senior Attorney

CBM:tf

Cc: Charles Tyler, FCC
James Bradford Ramsay, NARUC

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Connect America Fund |) | WC Docket No. 10-90 |
| |) | |
| A National Broadband Plan for Our Future |) | GN Docket No. 09-51 |
| |) | |
| High-Cost Universal Service Support |) | WC Docket No. 05-337 |
| |) | |

**REPLY COMMENTS OF THE
FLORIDA PUBLIC SERVICE COMMISSION**

COMMISSIONER NANCY ARGENZIANO

COMMISSIONER LISA POLAK EDGAR

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INTRODUCTION

The Florida Public Service Commission (FPSC) submits these reply comments in response to the Notice of Inquiry (NOI) and Notice of Proposed Rulemaking (NPRM) released by the Federal Communications Commission (FCC) on April 21, 2010.¹ In general, the FPSC is supportive of many of the reforms proposed within this notice, so long as the size of the high-cost programs is held in check. The FPSC strongly supports capping the program as proposed in the associated NPRM. We believe that left unchecked, continued unrestricted growth in the fund will threaten the affordability of service to all consumers.

MODELS

The FCC asks for comments on whether it should develop a nationwide broadband model to estimate necessary high-cost support levels for broadband and voice services in areas that are currently served by broadband with the aid of legacy high-cost support, as well as areas that are unserved. The FCC states that a federal model could provide a more uniform and equitable basis for determining support than individual carrier cost studies or models submitted by interested parties. The FCC further notes that a uniform federal model could provide a mechanism for determining support levels based on the geographic characteristics of the areas served. Currently, there are two models on which the FCC seeks comment. The first model, the Hybrid Cost Proxy Model (HCPM), is currently used to calculate high-cost support in non-rural study areas. The second model was developed by CostQuest Associates for the FCC staff in association with the development the National Broadband Plan. This

¹ FCC, Public Notice, DA 09-2419, GN Docket Nos. 09-47, 09-51, 09-137, released: November 13, 2009.

National Broadband Plan model was used to estimate the size of the broadband availability gap for the FCC's report to Congress.

As noted in the FCC's notice, the National Broadband Plan (NBP) model has several advantages over the FCC's existing HCPM that reflect improvements in cost modeling. Specifically, the NBP model:

- relies on road and other rights-of-way data to route outside plant;²
- estimates the costs of multiple broadband technologies; and
- includes the costs of "middle mile" facilities.³

The FPSC has not fully explored all nuances of the NBP model. For the reasons noted here, however, the FPSC believes that the NBP model is a better starting point for developing a broadband cost model than the FCC's outdated HCPM model.

The FCC seeks comment on whether a model would be an important tool, even if it uses a market-based mechanism to identify entities to be supported and support levels under the Connect America Fund. For example, if the FCC uses a reverse auction to determine Connect America Fund support levels, it would be important to establish a "reserve price."⁴ The FPSC agrees with the FCC that setting reserve prices could play a critical role in the effectiveness of the program in sending appropriate market signals to auction participants. The FPSC agrees that further refinement of a model would still be useful should the FCC adopt a market-based mechanism such as a reverse auction.

² Which is a more realistic method than HCPM's use of rectilinear distances.

³ Whereas the only transport costs that HCPM estimates are the incumbent LECs' interoffice transport costs.

⁴ A reserve price is a maximum subsidy level that participants would be allowed to place as a bid, since there may be few bidders in certain geographic areas.

COST VS. COST AND REVENUES

The FCC seeks comment on whether it should consider revenues, as well as costs, in determining Connect America Fund support. The current forward-looking cost model used by the FCC to determine support levels for voice telephony for non-rural carriers estimates only the costs to provide service, and does not consider revenues. By comparison, the National Broadband Plan model, in addition to estimating the incremental costs of deploying broadband in unserved areas, estimates the expected incremental revenues from the new customers and services resulting from the new broadband facilities.

The National Broadband Plan recommends that support should be based on forward-looking costs less revenues. It indicates that revenues should include all revenues earned from broadband-capable network infrastructure, including voice, data and video revenues. It would also take into account the impact of other regulatory reforms that may impact revenue flows, such as intercarrier compensation, and funding from other sources, such as Recovery Act grants.

The FPSC agrees with this approach and filed comments to that effect previously.⁵ As broadband networks are deployed due to the availability of new funding, there will likely also be additional revenues from new services other than broadband, such as video. If a new broadband support mechanism were to consider all associated revenues from services that can now be provided due to upgraded facilities, we expect the amount of support needed to meet the obligations of universal service would be less than if all revenues were not acknowledged.

⁵ Ex Parte Comments of the FPSC in response to NBP Public Notice #19, CC Docket No 96-45; WC Docket No. 05-337; WC Docket No 03-109; GN Docket Nos. 09-47, 09-51, and 09-137, filed December 15, 2009, p 3.

CAPPING HIGH-COST

The FCC recognizes that the first step toward redirecting universal service funds to support both broadband and voice service is to ensure that the size of the fund remains reasonable. To that end, the National Broadband Plan recommends that the FCC take steps to manage the high-cost fund so that its total size remains close to its current level to minimize the burden of increased universal service contributions on consumers. In 2008, the FCC began efforts to control the overall size of the high-cost fund by adopting a cap on the amount of high-cost support competitive eligible telecommunications carriers (CETCs) could receive. This cap was intended to remain in place pending comprehensive USF reform.

In this NPRM, the FCC seeks comment on capping legacy high-cost support provided to incumbent telephone companies at 2010 levels. As proposed, this would create an overall ceiling for the legacy high-cost programs. The proposed cap would remain in place while the FCC determines how to redistribute funds to the Connect America Fund in an efficient, targeted manner.

The FPSC believes that the adoption of an overall cap is in the public interest and consistent with the recommendation of the Federal-State Universal Service Joint Board (Joint Board). The recommendation of the Joint Board urged the FCC to expand the definition of supported services to include broadband, within the confines of the existing amount of high-cost support. The FPSC continues to support this position. As the Joint Board stated:

Despite our strong interest in providing adequate funding for broadband deployment, we also want to avoid significantly increasing the burden on those consumers. Therefore, we also recommend methods of transitioning from existing support mechanisms to the new funding structure, at approximately the

current fund size. In addition, we recommend caps on the total amount of money distributed by the high-cost support mechanism and recommend measures that should lead to more efficient uses of existing funding.⁶

Florida's pro-rata contribution to the high-cost fund increased nearly \$4 million in the year following the Joint Board's recommendation (the most recent available data).

Currently, the Universal Service Administrative Company (USAC) estimates the contribution factor for the third quarter of 2010 will have to be set at 13.6 percent in order to collect sufficient funding for all of the universal service programs.⁷ Expansion of the programs to include support for broadband without additional reform of the high-cost program will further increase the contribution factor. The continued escalation of the size of the fund threatens the "affordability" criterion that the program was intended to safeguard. As the Tenth Circuit recognized, "excessive subsidization may affect the affordability of telecommunications services, thus violating the principle in §254(b)(1)."⁸

The FCC seeks comments on how to structure such a cap. Alternatives proposed include a simple overall cap such that the total amounts of the different high-cost programs do not exceed the current distributions amount, capping each high-cost support program at its current level, or establishing a per-line freeze for each carrier. The FPSC supports capping the overall size of the high-cost funds, which would afford the FCC and USAC needed flexibility to administer the high-cost fund while transitioning to the Connect America Fund.

⁶ FCC, Recommended Decision of the Universal Service Joint Board, FCC 07J-4, WC Docket No. 05-337, CC Docket No. 96-45, Released: November 20, 2007.

⁷ The assessment factor is applied to carriers interstate and international revenues. VoIP and wireless carriers generally are assessed based upon a safe harbor contribution factor.

⁸ *Qwest Communications International v. FCC*, 398 F.3d 1222, 1234 (2005).

REDUCTION IN LEGACY HIGH-COST SUPPORT

The National Broadband Plan recommends several reforms to the patchwork of high-cost programs and redirecting savings towards the new Connect America Fund. Specifically, the FCC proposes to reduce and eventually eliminate the two high-cost access replacement mechanisms: Interstate Common Line Support (ICLS) for rate-of-return carriers, and Interstate Access Support (IAS) for price-cap carriers. Both of these high-cost support programs were designed to ameliorate the impact of FCC reductions in interstate access rates. Carriers in today's competitive marketplace must adapt their business models based primarily on revenues from their consumers. The FPSC agrees with the comments of Verizon that the planned phase-down of access support programs should be addressed together given that both ICLS and IAS serve the same function for different classes of carriers.⁹

The National Broadband Plan also recommends the phase out of high-cost support for CETCs over a five-year period and the reallocation of the savings from the phase-out to the Connect America Fund. The FCC seeks comment on this proposal and how the transition should occur. The FPSC supports the recommended phase-out of high-cost support for CETCs over five years. Moreover, the FPSC believes that all support from IAS and ICLS that CETCs receive should be phased out in the first year. Both IAS and ICLS were created in order to offset a portion of a mandated interstate access charge reduction considered to be an implicit universal service fund subsidy. However, CETC interstate access rates are not regulated and CETCs were never subject to mandatory access reductions. Thus, CETCs have no need to receive access replacement-related universal service monies. Furthermore, the FCC concluded that wireless carriers (which make up the majority of

⁹ Comments of Verizon & Verizon Wireless in WC Docket No. 10-90, GN Docket No. 09-51, and WC Docket No. 05-337, filed July 12, 2010, p. 3.

CETCs) have no right to impose access charges.¹⁰ For these reasons, the FPSC believes reallocating IAS and ICLS from CETCs to the Connect America Fund in an expedited manner is warranted. The remaining amount of non-access replacement CETC support could be reallocated to the Connect America Fund on a pro rata basis in the second through fifth year on a state-by-state basis.

EXPEDITED PROCESS FOR BROADBAND SUPPORT

The National Broadband Plan recommends that the FCC establish a fast-track program within the Connect America Fund for providers to receive targeted funding for new broadband construction in unserved areas. This funding could be provided to areas identified as “unserved” once the Broadband Data Improvement Act mapping is completed in February 2011. The FCC seeks comment on how to create an accelerated process to distribute funding to support new deployment of broadband-capable networks in unserved areas while it is considering final rules to fully implement the new Connect America Funding mechanism. In particular, the FCC seeks comment on whether there is an efficient method for delivering a set amount of support, which does not require the use of a model. Specifically, the FCC requests comment on whether some form of competitive procurement auction could be an efficient mechanism to determine subsidies for the extension of new broadband-capable infrastructure in unserved areas.

The FPSC would urge caution in implementing this aspect of the National Broadband Plan. The use of an accurate model is highly desirable in establishing a reserve price to select an efficient provider and minimize wasteful distribution of support. This position is consistent with the comments

¹⁰ Declaratory Ruling, Petition of Sprint PCS and AT&T Corp. for Declaratory Ruling CMRS Access Charges, WT Docket No. 01-316, released July 3, 2002, at ¶¶ 1, 8-9.

filed on behalf of the National Association of State Utility Consumer Advocates.¹¹ Regarding the ability of a competitive procurement process to address these concerns, we believe that it is highly dependent on the number of carriers that participate in the auction.

CONCLUSION

The FPSC believes that any expansion of the universal service programs must balance both the public benefit of increased broadband availability with the additional costs that will ultimately be borne by consumers. As we have stated repeatedly over the years, we oppose further growth in the size of the fund. To that end, the FPSC is strongly supportive of establishing a permanent cap on the overall size of the high-cost fund for all carriers. Redirecting support from the legacy high-cost support mechanisms to a new Connect America Fund is consistent with the position the FPSC has taken.

Improvements in infrastructure necessary to provide broadband ubiquitously will, in many instances, allow for the provision of new services in addition to those for which the universal service funding was expressly intended. It is reasonable for the FCC to consider these revenues when determining the necessary amount of support a carrier may need to provide broadband and voice services in high-cost areas.

The FPSC believes that there is benefit in refining a model, either to calculate high-cost support or in establishing a reserve price. Of the two models presented, the National Broadband Plan model appears to have addressed several of the shortcomings of the FCC's current model. This

¹¹ Comments of the National Association of State Utility Consumer Advocates, The Maine Office of Public Advocate, Office of the Ohio Consumers' Counsel, Pennsylvania Office of Consumer Advocate, and the Utility Reform Network in WC Docket No. 10-90, GN Docket No. 09-51, and WC Docket No. 05-337, filed July 12, 2010, p. 24.

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should not be read as a complete endorsement of the current National Broadband Plan model, but only a recommendation of where refinements should begin.

In addition, the FPSC supports the proposed elimination of high-cost support for CETCs over a five-year period and further recommends that IAS and ICLS funding be phased out in the first year.

While there is a strong desire to move expeditiously to ensure the ubiquitous deployment of broadband services, the FPSC is concerned that moving too quickly may result in providing support that could be better used either in more needier unserved areas, or through more efficient technology. To that end, the FCC should exercise care in the development of an expedited process to distribute broadband support before rules for the Connect America Fund are established. While a competitive bidding process may prevent inefficient support from being awarded, a successful bidding process would likely be contingent on the number of carriers participating in such an auction.

Respectfully submitted,
/ s /
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DATED: August 11, 2010