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Ms. Carole Washburn

Executive Secretary

Washington Utilities and Transportation Commission

Olympia, WA 98504

Re: Docket UT-073032 - WITA Petition for Moratorium on ETC Designations
Response of Eltopia Communications, LLC

Dear Ms. Washburn:

The Washington Independent Telephone Association on June 15, 2007 petitioned the Commission to impose a moratorium on new or revised designations of telecommunications carriers as eligible telecommunications carriers (“ETCs”) for federal universal service purposes.

This petition, if granted, would adversely affect the interests of Eltopia Communications, LLC, which petitioned for ETC designation on May 11, 2007 (Docket UT-073024). This letter provides Eltopia’s initial response to the WITA petition.

The Commission Should Treat the WITA Petition as a Request for Emergency Rule

An initial question for the Commission is procedural: Should the WITA petition be addressed and decided at an open meeting, through a formal adjudication, as a rulemaking, or through some other approach. We suggest that the most appropriate approach is to consider the petition a request for a rule under Chapter 34.05 RCW. The Commission’s currently effective rules on ETC designation state the conditions necessary for approval of an ETC petition:

WAC 480-123-040 Approval of petitions for eligible

telecommunications carriers. The commission will approve a petition for designation as an ETC if the petition meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of universal service found in 47 U.S.C. § 254, and the designation is in the public interest.

WITA requests that the Commission place a moratorium on the process established in WAC 480-123-040, so that petitions would not be approved even if they meet the requirements established in the rule. Moreover, any order establishing a moratorium would be an “agency order, directive, or regulation of general applicability” pursuant to RCW 34.05.010(16). RCW 34.05.350 allows the Commission to adopt or amend a rule on an emergency basis under specified conditions. Where the circumstances warrant it, the Commission can adopt an emergency rule very quickly, without the notice and comment procedures that otherwise would be required under Chapter 34.05 RCW.

We are particularly concerned that the Commission not put the WITA petition on a track for adjudicated hearings or non-emergency rulemaking workshops and comments, unless it continues to act on ETC applications during this process. To hold applications during a hearing or workshop process would effectively grant WITA’s petition without a decision on the merits, since those procedures would provide the very delay and inaction that WITA seeks.

The emergency rulemaking process is appropriate for this petition because WITA’s request is for an order of general applicability and it seeks to revise a process established by existing rules. We urge the Commission to treat the WITA petition as a petition for emergency rule and to evaluate it using the standards and timing appropriate for an emergency rule.

The Commission Should Not Impose a Moratorium

We urge the Commission not to grant WITA’s request for a moratorium on ETC designations. The concerns expressed by WITA are entirely about the national universal service program, and WITA is asking the wrong level of government to solve the purported problem.

WITA asserts that a moratorium is warranted because of “explosive growth” in the size of the federal universal service program. Yet WITA’s own petition describes the actions that are being taken at the federal level to address the issue of national fund size. A joint board constituted by the Federal Communications Commission has recommended interim reforms to the universal service program.¹ Specifically, the Joint Board has recommended that the amount of support provided to competitive ETCs be capped in each state at the level provided in 2006. There is nothing in the WITA petition to suggest that these recommended reforms will be inadequate to address the concerns that underlie WITA’s petition or why a state commission should second guess federal regulators who actually have the responsibility for managing the federal program.

¹ In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision (Released May 1, 2007).

If a moratorium on new ETCs were warranted, the appropriate body to impose that moratorium would be the federal government, yet the Joint Board chose not to take that drastic step. Moreover, WITA's own advocacy at the national level undermines its arguments for a moratorium in this state. Among the many options considered by the Joint Board was a moratorium on new and expanded ETCs.² Instead of recommending a moratorium on new ETCs, the Joint Board addressed the fund growth concerns by recommending a capping mechanism. While the Joint Board did not explain its decision, it is apparent that a cap is more effective in limiting the overall fund size and raises fewer issues of unfair discrimination among competitors.

The Joint Board's decision not adopt the moratorium approach did not engender opposition from WITA. Indeed, one day prior to filing its moratorium petition in Olympia, WITA went on record in Washington, D.C. supporting the Joint Board's recommended approach:

The Joint Board's proposed interim cap will secure the near-term sustainability of the high-cost Universal Service Fund (USF). This is a necessary first step toward long-term USF reform that must be taken to sustain affordable communications services for generations to come.

The proposed interim measure will relieve the rapidly growing pressure on the high-cost USF mechanism resulting from the explosive growth in CETC USF support. Adopting the 18-month interim CETC USF cap will provide the Federal Communications Commission (FCC) enough time to develop and implement long-term USF reform measures without risking the sustainability of the fund or public safety.

This is the best way to begin a process to preserve universal service for the benefit of all consumers.³

The Joint Board's recommended approach will, according to WITA, relieve the "rapidly growing pressure" on the federal program – the very same "explosive growth" that WITA would have UTC address through a state-level moratorium.

If a moratorium were warranted, it would be warranted only at the federal level. A state-level moratorium would have a negligible effect on national fund size. Washington

² For example, AT&T's April 2, 2007 *ex parte* filing advocated an immediate moratorium on approval of new ETCs and an immediate freeze on supported lines for wireless ETCs. A copy of this filing is include as Attachment 1 to these comments.

³ In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Letter from Terrence Stapleton, Executive Vice President, Washington Independent Telephone Association, May 14, 2007. A copy of this filing is included as Attachment 2 to these comments.

state's entire high-cost support in 2006 was \$102.7 million, 2.5% of the national total.⁴ A moratorium would not stop growth in line costs or rate base of the existing ETCs. WITA's claims that a state moratorium would address the national fund level cannot be reconciled with the reality that our state cannot make a meaningful difference acting alone and the moratorium would not even stop the growth in support levels of existing Washington state ETCs.

While a state-level moratorium will not help the identified problem of the national fund size, it does not follow that the moratorium would no effect within this state. It would have significant negative consequences for the competitive telecommunications market and for individual consumers in Washington state. A moratorium would limit the ability of Eltopia Communications to meet the demand of customers in eastern Washington for basic and advanced services. Eltopia is prepared to offer customers an alternative to their wireline provider and to provide broadband services that many customers cannot get from existing ETCs.⁵ A moratorium will result in unfair competition, since over \$100 million of subsidy per year will continue to flow to incumbent local exchange companies and already designated competitive ETCs.

If the Commission Adopts a Moratorium, It Should Apply Prospectively

WITA asks that the Commission not just close the door to new ETC applications but also hold in abeyance petitions that were already filed, including the petition of Eltopia Communications, LLC that was filed more than a month before WITA's petition.

If the Commission should determine that a moratorium is justified, we urge the Commission to apply that moratorium prospectively. The Commission has established in Chapter 480-123 WAC the standards that a carrier must meet to obtain designation as an ETC. Eltopia relied on those standards and carefully addressed them in preparing the application that it filed in May. It would be unfair to change the rules now. Every other carrier applying for ETC designation has obtained a prompt decision from the Commission, without an adjudicatory hearing and based on legal standards applied consistently and equitably, and Eltopia deserves comparable treatment. Suspending action on pending applications should be considered an extraordinary step – beyond even the circumstances that would justify a prospective moratorium – and there is nothing in WITA's petition that explains why this extraordinary step is necessary.

⁴ Joint Board Recommended Decision, Appendix B.

⁵ WITA recently reported to the FCC on the availability of broadband among a subset of its members. The report shows that 13 percent of the lines served by these reporting companies do not have broadband available. The report included information on 13 of 21 companies. In the Matter of Federal-State Joint Board on Universal Service Seeking Comment on the Merits of Using Auctions to Determine High-Cost Universal Service Support, WC Docket No. 05-337, CC Docket No. 96-45, Comments of the Montana Telecommunications Association, Oregon Telecommunications Association Small Company Committee and the Washington Independent Telephone Association, May 31, 2007. A copy of this filing is included as Attachment 3 to these comments.

Conclusion

Eltopia Communications, LLC urges the Commission to treat the WITA petition as a request for an emergency rule and to act on the petition promptly. We ask that the Commission deny the petition, because a state moratorium is neither necessary nor effective in addressing the national fund issues that WITA claims to underlie its request. Should the Commission impose a moratorium, we request that the interests of Eltopia be addressed by allowing its pending application to proceed under the rules in effect at the time it made its filing.

Sincerely,

Glenn Blackmon, Ph.D.
On behalf of
Eltopia Communications, LLC

Docket UT-073032 - WITA Petition for Moratorium on ETC Designations
Response of Eltopia Communications, LLC

Attachment 1 – AT&T *Ex Parte* Presentation



Jamie M. (Mike) Tan
Associate Director
Federal Regulatory

AT&T Services, Inc.
1120 20th St. NW, Suite 1000
Washington, D.C. 20036
Phone 202 457-3035
Fax 202 457-3070
E-Mail: jamie.tan@att.com

April 2, 2007

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street SW
Washington DC 20554

Re: NOTICE OF EX-PARTE COMMUNICATIONS

In the Matter of Federal-State Joint Board on Universal Service, High Cost Universal Service Support, WC Docket No. 05-337; In the Matter of Federal- State Joint Board on Universal Service, CC Docket No. 96-45

Dear Ms. Dortch:

On March 30, 2007, Bob Quinn, Joel Lubin, Mary Henze, and Christopher Heimann of AT&T Inc. met with Scott Deutchman, Legal Advisor to Commissioner Copps. Also on March 30th, the aforementioned AT&T representatives met with Nick Alexander, Legal Advisor to Commissioner Tate, and Ian Dillner, Legal Advisor to Chairman Martin.

The purpose of these meetings was to discuss the urgent need for comprehensive reform of the Commission's high cost universal service mechanisms and AT&T's recommendation that long-term reform should begin by getting control over the growth of the high cost fund. The positions expressed by AT&T during these meetings are consistent with AT&T's public filings in these proceedings. Attached, please find a copy of the presentation materials used during these meetings.

In accordance with section 1.1206 of the Commission's rules, a copy of this notice and the attached are being filed via the Commission's Electronic Comments Filing System in each of the above referenced dockets.

Should you have any questions about any of the aforementioned or the attached, please feel free to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "J. M. Tan".

attachment

Cc: Scott Deutchman
Nick Alexander
Ian Dillner



at&t

Stabilizing the Federal Universal Service Fund

A Necessary First Step Toward Long Term Reform

March 2007

Universal Service Reform: Next Steps

- **AT&T *enthusiastically* supports the guarantee of affordable, high quality service to all consumers.**
 - AT&T remains committed to serving all its customers, wherever they live.
 - With proper support, this commitment could — and should — include deployment of next-generation services to high cost areas.
- **The challenge is how to deliver ubiquitous, affordably priced broadband services while in the midst of a sea change.**
- **AT&T proposes the following solution as the path to long term universal service reform.**
 - Stabilize the current federal high cost fund to provide short term relief.
 - Move to a telephone numbers/connections-based contribution methodology.
 - Reform intercarrier compensation to preserve the availability of universal service support during the transition to an all-IP environment.
 - Reform federal high cost funding mechanisms to ensure that one provider offers affordable, high quality next-generation services in high cost areas.

The Need for Reform

Immediate Reform

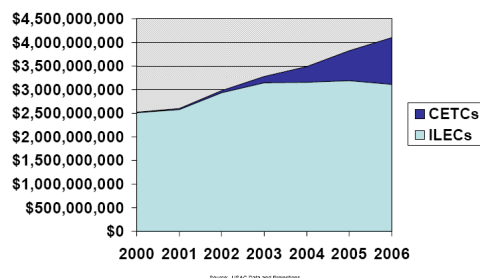
Stop the rate of growth in the High Cost Fund at its source: supporting multiple ETCs in the same service area.

Long Term Reform

Make fundamental reforms to universal service to support ubiquitous deployment of broadband networks.

- Many rural areas are not supported
 - For instance, 4 million rural access lines in legacy SBC territory receive no federal high cost support.
- Inefficient to support multiple ETCs.
- Supported Services are outdated.
- Should mobility be supported?
- Current mechanisms are not compatible with transition to broadband networks.

Total High-Cost Support Fund Payments – ILECs and CETCs



Study Areas with Multiple CETCs

Study Areas	CETCs
441	2 or 3
108	4 or 5
36	6 or 7
4	8 or 9
8	10 or more

Four Elements of AT&T Interim Stabilization Plan

AT&T's plan can be done quickly, is easily operationalized and will REDUCE the size of the USF. We estimate the contribution factor could be reduced to 11.4% in the next quarter, all things being equal.

1. Moratorium on approval of new ETCs

- Will immediately halt a significant cause of growth to the fund.
- Will have no affect on consumers' access to supported services in supported areas.

2. Freeze on supported lines for wireless ETCs

- Will immediately halt another significant cause of growth.

Four Elements of AT&T Interim Stabilization Plan

3. Reduce by 25% the support designed to replace access charges for carriers not traditionally entitled to charge tariffed access rates.

- Will REDUCE the size of the USF by approximately \$125M

4. Correct the sizing of IAS

- Will REDUCE the size of the USF by approximately \$75M

AT&T's Plan Can be Done Quickly

AT&T's Interim Stabilization Plan can be implemented virtually immediately - providing relief by next quarter.

- No comprehensive new rules will need to be developed and approved
- No new processes will have to be developed by USAC

- **Moratorium on ETC approvals can begin upon the effective date of an FCC Order.**

AT&T's Plan Can be Done Quickly

- **Line Freeze can be easily executed by Filers and USAC with little process change and no change to FCC Forms.**
 - ETCs would continue to file line counts as they do today so that per-line support amounts can be calculated. Once per-line amounts are established, USAC would simply use the line count filed immediately prior to the Order to calculate actual support.
- **25% reduction in access related support can be executed by USAC simply by calculating support based on frozen line count and reducing by 25%.**
 - No complex calculations will be required.
- **Correcting the size of the IAS Fund can be done simply by clarifying the correct FCC data source to be used in the calculation.**

Docket UT-073032 - WITA Petition for Moratorium on ETC Designations
Response of Eltopia Communications, LLC

Attachment 2 – Comments of WITA on Joint Board Recommendation



WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION

*Terrence Stapleton
Executive Vice President*

June 14, 2007

Ms. Marlene Dortch
Secretary, Federal Communications Commission
445 12th Street, SW
Room TW-B204
Washington, D.C. 20554

**Re: In the Matter of High-Cost Universal Service Support, WC Docket No. 05-337; In the
Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45**

Dear Ms. Dortch:

I would like to thank and praise Commissioner Deborah Taylor Tate for her outstanding leadership as chair of the Federal-State Joint Board on Universal Service (Joint Board) and for her eloquent testimony before the Senate Commerce Committee on June 12, 2007. I also would like to express my full support of the Joint Board's recommendation to place an interim, emergency cap on the amount of high-cost universal service support that competitive eligible telecommunications carriers (CETCs) will receive over the next 18 months. The Joint Board's proposed interim cap will secure the near-term sustainability of the high-cost Universal Service Fund (USF). This is a necessary first step toward long-term USF reform that must be taken to sustain affordable communications services for generations to come.

The proposed interim measure will relieve the rapidly growing pressure on the high-cost USF mechanism resulting from the explosive growth in CETC USF support. Adopting the 18-month interim CETC USF cap will provide the Federal Communications Commission (FCC) enough time to develop and implement long-term USF reform measures without risking the sustainability of the fund or public safety.

This is the best way to begin a process to preserve universal service for the benefit of all consumers. Without this critical interim action and the leadership of Commissioner Tate the benefits that universal service provides to consumers would be in serious jeopardy in the very near future. For these reasons, I urge Chairman Martin and Commissioners Copps, Adelstein and McDowell to support Commissioner Tate and adopt the Joint Board's proposed emergency, interim cap on CETC high-cost universal service support.

Sincerely,

Terrence Stapleton

cc: Chairman Kevin J. Martin
Commissioner Jonathan S. Adelstein
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Deborah Taylor Tate

Docket UT-073032 - WITA Petition for Moratorium on ETC Designations
Response of Eltopia Communications, LLC

Attachment 3 – Comments of WITA *et al.* on comprehensive USF reform

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	WC Docket No. 05-337
Universal Service Seeking Comment)	
on the Merits of Using Auctions to)	
Determine High-Cost Universal)	CC Docket No. 96-45
Service Support)	

**COMMENTS OF THE
MONTANA TELECOMMUNICATIONS ASSOCIATION,
OREGON TELECOMMUNICATIONS ASSOCIATION
SMALL COMPANY COMMITTEE
AND
THE WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION**

May 31, 2007

INTRODUCTION

On the same date that the Federal-State Joint Board on Universal Service ("Joint Board") released its Recommended Decision proposing an interim high cost universal service fund solution,¹ the Joint Board called for comments on more comprehensive means for addressing long term high cost universal service reform.² Of the subjects set out for comment, these Comments will address the issues of "identical support" and the use of reverse auctions.

Members of the Montana Telecommunications Association ("MTA"), the Oregon Telecommunications Association Small Company Committee ("OTASCC") and the Washington Independent Telephone Association ("WITA") are rural telephone companies as defined by the Telecommunications Act of 1996 and the Federal Communications Commission's implementing rules. They provide service to some of the most remote and sparsely populated areas of the states of Montana, Oregon and Washington.

The members of MTA participating in these Comments are: 3 Rivers Telephone Cooperative, Blackfoot Telephone Cooperative, CenturyTel of Montana, Frontier Communications, Hot Springs Telephone Company, Lincoln Telephone Company, Range Telephone Cooperative, and Southern Montana Telephone Company.

The members of the OTASCC participating in these Comments are: Asotin Telephone Company d/b/a TDS Telecom, Beaver Creek Cooperative Telephone Company, Canby Telecom, Cascade Utilities, Inc., CenturyTel of Eastern Oregon,³ CenturyTel of Oregon,³ Colton Telephone Company, Eagle Telephone System, Inc., Gervais Telephone Company, Helix

¹ In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service, WC Docket No. 05-377, CC Docket No. 96-45, Recommended Decision, (Released May 1, 2007) ("Recommended Decision").

² Public Notice, FCC 07J-2 (Released May 1, 2007) ("Notice").

³ While technically not members of OTASCC, CenturyTel of Eastern Oregon and CenturyTel of Oregon are rural companies and join in these Comments.

Telephone Company, Home Telephone Company d/b/a TDS Telecom, Malheur Telephone Company, Midvale Telephone Exchange Incorporated, Molalla Communications, Inc., Monitor Cooperative Telephone Company, Monroe Telephone Company, Mt. Angel Telephone Company, Nehalem Telecommunications, Inc., North-State Telephone Co., Oregon-Idaho Utilities, Inc., Oregon Telephone Corporation, People's Telephone Co., Pine Telephone System, Inc., Pioneer Telephone Cooperative, Roome Telecommunications Inc., St. Paul Cooperative Telephone Association, Scio Mutual Telephone Association, Stayton Cooperative Telephone Company and Trans-Cascades Telephone Company.

The members of WITA participating in these Comments are: Asotin Telephone Company d/b/a TDS Telecom, Beaver Creek Telco d/b/a Timberline Telecom, CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., CenturyTel of Inter-Island, Inc., Ellensburg Telephone Company d/b/a FairPoint Communications, Hat Island Telephone Company, Hood Canal Telephone Co., Inc. d/b/a Hood Canal Communications, Inland Telephone Company, Kalama Telephone Company, Lewis River Telephone Company, Inc. d/b/a TDS Telecom, Mashell Telecom, Inc. d/b/a Rainier Connect, McDaniel Telephone Co. d/b/a TDS Telecom, Pend Oreille Telephone Company, Pioneer Telephone Company, St. John Co-operative Telephone and Telegraph Company, Tenino Telephone Company, The Toledo Telephone Co., Inc., Western Wahkiakum County Telephone Company, Whidbey Telephone Company and YCOM Networks, Inc d/b/a FairPoint Communications.

THE IDENTICAL SUPPORT RULE SHOULD BE ABANDONED

The Joint Board is correct that the identical support rule, under which a competitive ETC receives support on the same per-line amount that the incumbent receives, should be abandoned.

In the Recommended Decision, the Joint Board notes that the identical support rule “seems to be one of the primary causes of the explosive growth in the fund.”⁴ The Joint Board noted that the growth of support for competitive ETCs has gone from fifteen million dollars in 2001 to almost one billion dollars in 2006 and is projected to reach 1.28 billion dollars in 2007.⁵ The Joint Board is correct that the increase in the size of the high cost universal service fund in recent years has been due to the amounts attributable to competitive ETCs.

As the Joint Board is aware, incumbent ETCs provide detailed cost information supported by Part 36/69 cost studies to provide the basis for their draw from the federal universal service fund. It appears to be appropriate to have competitive ETCs provide some basis for their draw from the high-cost universal service fund.

Since many competitive ETCs advocate the use of forward-looking economic cost models,⁶ it may be appropriate for those companies to use the forward-looking economic cost models they advocate as a basis of developing competitive ETC cost support. It is well accepted that the current non-rural proxy model does not work well for estimating rural incumbent company costs. In fact, the FCC’s own high cost model produces cost estimates for some rural companies that are higher than the costs produced by embedded cost studies. However, such forward-looking economic cost models may be appropriate for competitive ETCs, particularly wireless ETCs.

The Joint Board inquired whether additional principles should be adopted under the authority in 47 U.S.C. §254(b)(7).⁷ MTA, OTASCC and WITA urge that strong consideration

⁴ Recommended Decision at ¶12.

⁵ Recommended Decision at ¶4.

⁶ See, e.g., Reply Comments of CTIA-The Wireless Association® - Attachment entitled Controlling Universal Service Funding and Promoting Competition Through Reverse Auctions submitted in this docket on or about November 8, 2006.

⁷ Notice at ¶7. Technically, the Notice treats this as a separate issue from reverse auctions. However, MTA, OTASCC and WITA see the two concepts as linked.

be given to limiting the number of ETCs in some areas. Recently, Chairman Martin responded to a number of questions raised by Congressman Markey, Chair of the House Subcommittee on Telecommunications and the Internet, in his April 2, 2007, letter to Chairman Martin.⁸ One of the subjects addressed was the number of competitive ETCs in an area. Chairman Martin's response was, in part, as follows:

I believe we need to limit the ability of rural consumers to receive support for multiple phones as well. Indeed, I agree that the current Commission policies result in 'the subsidies generated by the Commission's universal service rules now support[ing] multiple wireless networks providing services that for many consumers are effectively a complement, not a substitute, to the service already offered by the subsidized wireline incumbent local exchange carrier.'...I am concerned about the Commission's policy of using universal service support as a means of creating government-managed 'competition' for phone service in high-cost areas. I am hesitant to subsidize multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. Such a policy could also make it difficult for any one carrier to achieve the economies of scale necessary to serve all of the customers in a rural area, leading to inefficient and/or stranded investment and a ballooning universal service fund.⁹

In particular, in areas where high cost support on a per-line basis is quite high, the principle could be established that such markets can support no more than one network of each major technology. Thus, under a market approach where the incumbent support is thirty dollars per month per line or higher,¹⁰ a limitation of one ETC per wireline technology and one ETC per wireless technology could be put in place. For those areas where there is currently more than one ETC of a particular technology, a comparative hearing could be used to determine the ETC for that classification.

⁸ Chairman Martin's response is not dated, but appears to have been issued around May 14, 2007 ("Martin Response").

⁹ *Ibid.*

¹⁰ This threshold is illustrative.

On this subject, the Joint Board inquires whether modification of the identical support rule or adoption of additional principles that could limit the number of ETCs in a high cost area would be consistent with the principle of competitive neutrality.¹¹ MTA, OTASCC and WITA take the position that so long as there is the opportunity for one wireline and one wireless ETC to be designated in a particular area, the program would be consistent with the principle of competitive neutrality. As Chairman Martin stated in his response to Congressman Markey:

Section 214(e) states that '[a] common carrier designated as an eligible telecommunications carrier...shall be *eligible* to receive universal service support in accordance with section 254.' Neither section 214 nor section 254 specify a specific amount of universal service support." (Emphasis in the original.)¹²

In other words, limiting the number of ETCs in a high cost area, or limiting the amount of support ETCs receive does not violate the principle of competitive neutrality since all ETCs are *eligible* to receive support based on each carrier's level of support.

THE USE OF REVERSE AUCTIONS HAS NOT YET BEEN PROVEN TO BE AN EFFECTIVE MECHANISM

This past fall, the Joint Board sought comment on the use of reverse auctions. MTA, OTASCC and WITA participated in those comment rounds, submitting both opening and reply comments. In those comments, MTA, OTASCC and WITA pointed to the substantial administrative problems that exist with reverse auctions. Many other parties filed similar comments. Particularly instructive on the complex administrative problems associated with the use of reverse auctions is the paper presented by Professor Dale E. Lehman through the National Telecommunications Cooperative Association. That paper is entitled "The Use of Reverse

¹¹ Notice Seeking Comment, FCC 07J-2 (Released May 1, 2007) at ¶7.

¹² Martin Response.

Auctions for Provision of Universal Service.” Professor Lehman pointed out the numerous administrative issues associated with trying to implement a reverse auction concept.

Beyond the jungle of administrative problems, and more telling, is the question of whether reverse auctions will actually discourage investment in rural infrastructure. In the prior round of comments, both CoBank and the Rural Telephone Finance Cooperative filed comments on this topic.

CoBank pointed out that reverse auctions will have a negative affect on the cost of debt and availability of debt financing. CoBank commented as follows:

Much of the theoretical appeal of reverse auctions is dissipated under the actual conditions under which universal service will be provided. Regulators will need more foresight than they would like. They will need to specify universal service requirements far enough into the future to allow for the required investment incentives. They will need to know more about the most efficient market structure (single COLR, multiple, which technology, etc.) than they would like.

CoBank cautions the FCC on the use of auctions to determine high-cost universal service support funding (USF) to eligible telecommunications companies (ETCs) pursuant to Section 254 of the Communications Act of 1934. Reverse Auctions do not provide clarity in regard to federal cost recovery mechanisms to empower the best providers of basic and advanced telecommunications services in rural areas. Reverse auctions present more uncertainty because they are a risky approach to high-cost support, which will cause the cost of debt to increase. (Emphasis added.)¹³

The Comments of the Rural Telephone Finance Cooperative (RTFC) were just as much to the point. RTFC pointed out that it has more than 2 billion dollars in outstanding loans to rural providers. RTFC then stated its position on reverse auctions:

Reverse auctions (competitive bidding) to determine high-cost universal service funding for incumbent rural local exchange carriers (RLECs) will discourage investment in the rural telecommunications infrastructure and result in lesser quality service to rural Americans. Such a high-cost support regime will cause lenders to reconsider lending into rural telecom space. (Emphasis added.)¹⁴

¹³ Comments of CoBank dated October 10, 2006 at p. 2.

¹⁴ Comments of Rural Telephone Finance Cooperative dated October 10, 2006 at p. 2.

When two of the major finance institutions for rural infrastructure issue comments that reverse auctions will increase risk, and thereby increase the cost for rural infrastructure, and lessen the availability of funds to build rural infrastructure, those comments should be paid a great deal of attention. Without the substantial debt financing that CoBank and RTFC provide, rural infrastructure would not be nearly as robust as it is today.

IF REVERSE AUCTIONS ARE TO BE USED, THEN THEY SHOULD BE INTRODUCED SLOWLY

Many of the Commenters from this past Fall noted that given the number of potential problems with reverse auctions, if reverse auctions are to be used as a tool for limiting the size of the high-cost fund, reverse auctions should be introduced slowly and in targeted markets. Several Commenters suggested that if reverse auctions are to be used, they be used for determining a single wireless ETC in areas where multiple wireless ETCs may exist.¹⁵ Even supporters of reverse auctions (which are limited in number) suggest a phased-in approach so that problems can be addressed.¹⁶

CTIA'S REVERSE AUCTION PROPOSAL IS DEFICIENT

The Joint Board specifically referred to CTIA's auction proposal as filed with their reply comments, seeking comment on that reverse auction proposal. The CTIA paper related to reverse auctions is more a discussion of the principles than a specific reverse auction proposal. For example, it discusses the use of various geographic areas and the pros and cons of each.

¹⁵ See, e.g., Comments of TCA dated October 10, 2006; Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies dated October 10, 2006 at p. 14-16.

¹⁶ For example, the Comments of CTIA – The Wireless Association® suggest starting only with the larger ETC areas in apparent recognition of the potential serious effect of problems with reverse auctions may have on the more rural areas. See, also, Verizon's letter to the Joint Board dated February 9, 2007.

MTA, OTASCC and WITA believe that if reverse auctions are to be used, the geographic area must be related to the service area of the incumbent ETCs, be that the study area or a wire center by wire center basis.

The CTIA paper also talks about an approach for a “Winner-Takes-More” system where losing bids are not rejected, but are funded on a reduced level.¹⁷ That concept does not translate very readily to a meaningful limitation on the size of the high cost universal service fund. If states are still free to continue to designate four, five, six, seven and more competitive ETCs for an area, the size of the high cost universal service fund will continue to expand.

The CTIA paper also suggests that auction results should be measured by comparison to forward-looking cost estimates.¹⁸ Since there is yet to be a forward-looking economic cost model that has been recognized to be an accurate barometer of wireline cost in providing service to small, sparsely populated rural areas, that suggestion is highly unlikely to produce a reasonable or meaningful result by which to measure auction results.

CTIA’s proposal is deficient.

CONCLUSION

MTA, OTASCC and WITA strongly urge the Joint Board to continue to move in the direction it has signaled with the elimination of the identical support rule.

MTA, OTASCC and WITA request that the Joint Board be very thorough in its consideration of reverse auctions. The Joint Board should be satisfied that all of the questions that have been raised by the commenters concerning administrative problems and the potential

¹⁷ See, e.g., Controlling Universal Funding and Promoting Competition Through Reverse Auctions at p. 19.

¹⁸ *Ibid.* at p. 28.

disincentive for investment in rural areas be fully addressed before a reverse auction proposal is adopted.

The concern that use of reverse auctions will discourage investment in rural areas is particularly on point. Recent Congressional hearings on the drop of the United States from twelfth place to fifteenth place in the world in terms of broadband penetration brought criticism from consumer groups against the FCC for its failure to address broadband penetration. The members of MTA, OTASCC and WITA have been very aggressive in building out broadband networks. A chart demonstrating selective, but representative, company efforts at broadband penetration is found in the attached Exhibit 1. In many cases, fully one hundred percent of the member companies' customers have broadband available to them.¹⁹ Making a major change to the existing system through the use of reverse auctions that would discourage investment in rural infrastructure can only hurt the effort to make broadband services widely available.

Respectfully submitted this 31st day of May, 2007.

By: _____



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¹⁹ In most cases, the infrastructure investment is recent and it will be many years before the debt undertaken to make the investment is paid off.

EXHIBIT 1
Selected Oregon Companies*

<u>Company</u>	<u>Area Served (In Square Miles)</u>	<u>Number of Access Lines</u>	<u>Broadband Availability</u>
A	106	7,562	100%
B	60	1,399	100%
C	184	293	68.26%**
D	65	671	99.8%
E	50	901	100%
F	52	3,660	100%
G	84	10,819	99+%
H	100	1,735	100%
I	760	774	86%
J	64	4,260	99.9%
K	1,304	14,747	100%
L	620	917	100%
M	30	640	100%
N	17	1,931	100%
O	1,762	8,699	90%
P	893	214	59%

*In addition, CenturyTel of Oregon and CenturyTel of Eastern Oregon together serve 69,448 access lines in the State of Oregon, of which approximately 81.4% have broadband access from CenturyTel.

**Construction will provide 100% coverage by end of 3rd quarter, 2007.

Selected Washington Companies***

<u>Company</u>	<u>Area Served (In Square Miles)</u>	<u>Number of Access Lines</u>	<u>Broadband Availability</u>
A	100	3,490	100%
B	120	3,096	100%
C	120	2,260	100%
D	110	1,191	100%
E	92	3,753	100%
F	283	650	85%
G	415	1,348	77%
H	212	4,343	62%
I	140	6,076	82%
J	463	3,022	97%

***In addition, CenturyTel of Washington, CenturyTel of Inter-Island and CenturyTel of Cowiche together serve 166,187 access lines in the State of Washington, of which approximately 86.4% have broadband access from CenturyTel.

Selected Montana Companies

<u>Company</u>	<u>Area Served (In Square Miles)</u>	<u>Number of Access Lines</u>	<u>Broadband Availability</u>
A	1,900	1,000	85%
B	6,255	16,676	97%
C	15,500	7,713	75%
D	16,500	23,450	85%
E	3,500	59,900	94%
F	1,250	1,065	96%
G	720	825	98%
H	3,000	8,150	96%