BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

REPLY COMMENTS OF JOHN STAURULAKIS, INC.

May 23, 2011

TABLE OF CONTENTS

EXECUTIVE SUMMARY

In its comments, John Staurulakis, Inc. ("JSI") responds to certain specific proposals proposed by the State Members of the Federal State Joint Board on Universal Service and AT&T. JSI also provides recommendations on several fundamental principles the Commission is encouraged to adopt when evaluating the myriad of reform proposals recommended in this proceeding. JSI recommends the Commission reject certain reforms that are likely to reverse the gains in universal service made in rural areas of the nation and will chill private investment in the highest of the high-cost areas of the country

.

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

REPLY COMMENTS OF JOHN STAURULAKIS, INC.

John Staurulakis, Inc. ("JSI") files these reply comments in response to various initial comments filed in conjunction with the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking released February 9, 2011 in the above captioned matters.[1] JSI is a consulting firm offering regulatory, financial and business development services to more than two hundred independent

[1] *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, and Lifeline and Link-Up*, WC Dockets No. 10-90 et al., FCC 11-13 (rel. Feb. 9, 2011) ("NPRM") and Federal Register Vol. 76, No. 41 11632-11663 ("FR").

rate-of-return regulated incumbent local exchange carriers throughout the United States. Among the various services offered to its clients, JSI assists with matters, including but not limited to preparing and submitting jurisdictional cost studies as well as preparing universal service fund data to the National Exchange Carrier Association ("NECA"), preparing and filing tariffs with state commissions, negotiating interconnection and traffic exchange agreements with other carriers, as well as other matters related to the Commission. Accordingly, JSI is an interested party in this matter and offers the following comments.

I. Introduction

The Commission has received hundreds of comments filed by interested parties in this proceeding. In the limited time provided for reply, JSI cannot address all of the issues raised during the initial round of comments. Instead, JSI will limit its response to several fundamental issues with the aspiration that its focused approach will aid the Commission in its reforms of federal universal service and intercarrier compensation.

To begin, JSI observes that many parties filing comments agree with the several issues JSI raised in its initial comments. JSI recommendations for various near-term reforms (High Cost Model support, corporate operations expenses, Local Switching Support, Safety Net Additive support, total high-cost support limits, and disaggregation) were recommended in part by many other parties and JSI urges the Commission to adopt these reforms as part of its overall reform of federal universal service.

The FCC recognizes public support is needed to spur private investment where it is not economically viable to deploy and/or operate broadband networks.[2] In light of this recognition JSI urges the Commission to carefully consider two important items that have to do with the reform process. First, JSI reiterates its recommendation that any reform process should recognize the reliance of rural incumbent carriers on federal High-Cost support to recover investments made under the current universal service program. Comments from the American Cable Association provide succinct guidance on this matter.[3] While many parties and the Commission have expressed a sense of urgency to reform, JSI observes that when the non-rural carriers were transitioned to a new federal universal service regime, the Commission provided a transition in the form of a hold-harmless mechanism that lasted seven years. Since rural incumbent local exchange carriers receiving federal High-Cost support have an even greater reliance on these support funds, it will be necessary for the Commission to provide for a "more gradual" transition than what was afforded the large non-rural carriers.

Second, as the Commission seeks to expand the scope of federal universal service programs, the needs of existing network providers that currently operate in geographically and/or demographically challenging areas of the nation cannot be forgotten. Carrier-of-last-resort obligations in all areas served by rural local exchange carriers require the installation and operation of networks—this means that even in areas where competition exists, the underlying carrier-of-last-resort is required to be ready to serve end-user customers. There is a strong public

[2] *Id.* at 1.

[3] Comments of the American Cable Association at 7. ("Smaller local telephone companies have demonstrated, for the most part, competence in providing telecommunications service in high-cost, rural areas. They operate in fewer and much smaller service territories and also tend to be less diversified than the major telephone providers. In other words, High-Cost support makes up a much larger percentage of their operating revenues. For those reasons, any transition should be more gradual.")

interest in having a carrier-of-last-resort be ready and able to serve customers. JSI urges the Commission to recognize that in the process of reform, rural carriers serving high-cost areas under a state imposed carrier-of-last-resort obligation need to receive support in order to fulfill this obligation. With these two recommendations in mind, JSI provides the following reply comments.

II. Fundamental Principles

JSI believes the Commission should establish three fundamental principles to guide its consideration of the many comments and suggestions offered in this proceeding. First, the Commission should ensure that the level of support is adequate to achieve its goals for universal service. While the near-term reforms are designed to free up support for the Commission's ambitious and necessary reform toward a broadband-centric policy, JSI believes the Commission should not foreclose the option to provide additional support for federal universal service. It is evident that there is a great need for federal support in encouraging private investment in rural areas of the nation. If the Commission were to establish a rigid limit of how much support it should distribute in a given year, the goal of universal service established by Congress may never be reached.

Second, it is clear that eligible telecommunication carrier ("ETC") designation should be mandatory in order to be eligible for federal universal service support. The ETC designation process provides for necessary and reasonable oversight for the use of federal universal service support. JSI agrees with the proposition that only those who accept ETC obligations—as defined by the Commission and state commissions—should receive support.

Third, as we noted in the foregoing section, JSI believes that carrier-of-last-resort obligations require ongoing support even in competitive areas. JSI submits the commitment to have one provider be the carrier-of-last-resort throughout a study area is in the public interest and is an important safety net for end users.

III. State Members of the Federal State Joint Board on Universal Service

In this proceeding the state members of the Federal-State Joint Board on Universal Service ("State Members") filed comments.[4] JSI believes certain recommendations made by the State Members are misguided and should be rejected by the Commission.

A. Stand-Alone Cost

First, the State Members argue that stand-alone costs in a competitive area should be used to determine how much support should be distributed to non-competitive rural areas of a study area.[5] The approach to use stand-alone cost is a significant departure from allocating shared or common costs and ignores the value of having a carrier-of-last-resort in a competitive area. The Commission would do well by rejecting this approach that threatens the public interest in having a carrier-of-last-resort. Furthermore, use of stand-alone cost doesn't recognize the necessary and reasonable allocation of shared and common costs among end-users.

B. Limiting Support on a Per Line Basis

The State Members argue for a per line per month limit of federal universal service of

[4] Comments by State Members of the Federal State Joint Board on Universal Service, May 2, 2011 ("State Members Comments").
[5] *Id*. at 40-ff

$100.[6] This recommendation is based on the observation that "satellite-based broadband service is generally available at a rate of about $80 per month." The Commission was considering a limit of support at $3,000 annually or $250 per month. JSI observed in its initial comments that the $3,000 limit was arbitrary and unfairly limited support to high-cost service areas. The recommendation of the State Members suffers from the same defects. The proposal does not address the facts of terrain and vegetation that preclude areas of the nation from receiving satellite service. Furthermore, the recommendation does not consider the benefit of having a wireline service provider offering not only end-user services but also vitally important backhaul service in rural areas of the nation. JSI understands that terrestrial wireless service providers try to get to a wireline network as soon as possible in order to conserve vital wireless capabilities. JSI would submit that satellite providers have similar interests in getting to a wireline network. The recommendation to move to satellite service for rural areas of the nation whose costs to serve exceed $1,200 per user annually will also relegate rural areas of the nation to second-class broadband speeds as satellite service will be unable to increase speeds at the same frequency as wireline networks can using scalable technology. JSI recommends the Commission reject this proposal.

C. Rate of Return

The State Members propose to reduce the rate of return using a *pro forma* capital structure.[7] The State Members argue the currently prescribed rate was established 20 years ago without recognizing that the Commission reviewed the prescribed rate of return for rural carriers

[6] *Id*. at 59.
[7] *Id*. at 37. The State Members propose to reduce the rate of return for universal service calculations to 8.5%.

in the MAG Order in 2001.[8] While it is correct to observe that interest rates are currently low, it is incorrect to assume interest rates will remain at historically low levels in the future. Current recent experience in the corporate bond market suggests that the smart money is betting that interest rates will increase in the near term. Furthermore, the level of risk associated with investing in rural areas of the nation has increased significantly in part because of the very reforms we are discussing. The State Members' proposed return on equity of 12 percent is supposed to attract capital to rural areas of the nation;[9] however, while the State Members suggest 12 percent is enough to attract capital to an ETC, JSI argues that based on the reforms and limitations suggested by the State Members, 12 percent for outlying non-competitive areas will not be enough to persuade investors to invest in rural areas of the nation. Lastly, the State Members assume that debt and equity are equal for purposes of determining the prescribed rate of return. The State Members provide no evidence that their *pro forma* approach is appropriate or reasonable; nor do they provide any guidance whether this estimate is consistent with the best-case practices in rural areas of the nation. If the Commission were to want to change the prescribed rate of return for rural carriers, these factors should be considered in a separate proceeding.[10]

---

[8] *Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166*, FCC 01-304, rel. Nov. 8, 2001.

[9] The State Members note, "With interest rate and capital structure known, an overall return of 8.5% implies a return on equity of 12%. Although risk in the wireline industry is higher now than in the past, under State Members' Plan a designated ETC can have a reasonable expectation of continuing support, and that expectation itself mitigates much of the financial risk. An authorized equity return of 12% should be ample to attract capital to an ETC." State Members Comments at 37.

[10] *Id.* at 209 ("We conclude that the record in the above-captioned proceedings is inadequate to permit us to determine the appropriate rate of return for rate-of-return carriers. Parties addressing this issue in response to the MAG Notice generally make broad statements of their positions. For example, commenters representing the

D. State Participation – Carrots or Sticks

The State Members also recommend the Commission use a penalty of $2.00 per line per month of federal support in order to provide the incentive for state commissions to develop state universal service support programs. This recommendation is arbitrary and is not faithful to the duty of the Commission to ensure that its universal service program is consistent with the Communications Act of 1934, as amended. The Commission should look to provide rewards to states who participate with the Commission in furthering universal service instead of looking to penalize states that, for a variety of reasons, are unable to develop state high cost universal service funds. JSI recommends the Commission reject this approach as it will do little to foster healthy relationships between the Commission and state commissions.

IV. AT&T

JSI wishes to make several observations on the comments filed by AT&T in this proceeding.[11] First, JSI had joined a number of commenting parties stating that bill and keep for intercarrier compensation is not appropriate for rural carriers. The comments from AT&T are unpersuasive in proposing the ideal policy is a bill and keep regime for intercarrier compensation. The principle the Commission should adopt is that users of networks should pay for their use. A bill and keep regime requires too many assumptions on costs and traffic flows

---

interests of rate-of-return carriers state that the 11.25 percent reflects a realistic cost of capital in today's economy, noting the uncertainty of new regulations, developing competition, and an increasingly unfavorable capital market. Other parties contend that the authorized rate of return is far above the level necessary to meet the expectations of investors, to attract new capital in current financial markets, and to reflect the current level of competition for interstate services. Such general statements are inadequate to permit us to determine the appropriate rate of return for rate-of-return carriers." [Emphasis added, footnotes omitted])

[11] Comments of AT&T, April 18, 2011 ("AT&T Comments").

that may not be valid for rural carriers. Furthermore, JSI agrees with Verizon that a non-zero positive rate for traffic would prevent market distortions.[12]

Second, JSI believes that AT&T's approach to a local service benchmark of ultimately $30.00 plus federal subscriber line charges is not faithful to the policy recommendation that rural rates for universal services be reasonably comparable to urban rates. JSI urges the Commission to reject AT&T's rates proposed for a local service benchmark.

Third, AT&T and others argue that the Commission should declare that VoIP services of all types should be regulated exclusively by the Commission. It is widely recognized that VoIP is a technology used to provide telecommunications services. Calls using this technology should be regulated like all types of telecommunications traffic. States and the Commission have an important role to play in providing technology-agnostic intercarrier compensation policy.

Fourth, AT&T favors using a procurement model for the distribution of high-cost funding. As has been discussed by JSI and other parties, the proposal to use a procurement model (a/k/a reverse auction) for the disbursement of universal service is not appropriate for areas served by rural carriers. JSI recommends that if the Commission were to want to explore this model for universal service disbursement, it should do so for non-rural carriers first. Thereafter the Commission can assess whether this approach is in the public interest for areas served by rural carriers.

While there are many other troubling aspects to the AT&T comments, JSI believes these four warrant a response in its reply comments.

---

[12] Comments of Verizon and Verizon Wireless, April 18, 2011. While JSI agrees with Verizon in arguing for a positive rate, JSI does not agree with Verizon that the proposed $0.0007 rate is appropriate for rural carriers.

V. Conclusion

JSI urges the Commission to adopt several clear principles to guide its reform of federal universal service for areas served by rural carriers. JSI also urges the Commission to reject certain targeted recommendations from the State Members and from AT&T. JSI believes certain reforms are necessary and should be adopted as soon as practicable. However, other reform proposals are too extreme for rural carriers or place the very universal service the Commission seeks to advance in jeopardy. As we said in our initial comments, as the Commission develops its reforms, JSI recommends that the Commission stay true to the ultimate purpose of universal service—to provide public support in high-cost areas of the nation to spur private investment and provide ongoing support to preserve and advance telecommunications services. Many proposals identified by the Commission and provided in initial comments appear to distract the Commission with this primary objective. These proposals should be set aside in favor of others that enable the Commission to achieve its aim for federal universal service.

Respectfully submitted,

May 23, 2011

John Staurulakis, Inc.

/s/ Manny Staurulakis
Manny Staurulakis
President
John Staurulakis, Inc.
7852 Walker Drive, Suite 200
Greenbelt, Maryland 20770
(301) 459-7590