Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Options to Promote Rural Broadband In Rate-of-Return Areas	))	

REPLY COMMENTS OF
JOHN STAURULAKIS, INC.

John Staurulakis, Inc. ("JSI")[1] hereby submits these reply comments in response to the Wireline Competition Bureau's May 16, 2013 Public Notice (*"Public Notice"*)[2] seeking comment on two proposals to promote broadband deployment in rural areas served by rural local exchange carriers ("RLECs"). The *Public Notice* sought comment on a recommendation initially made in 2011 by NTCA, OPASTCO, NECA and WTA (the "Rural Associations") to make universal service support available for "stand-alone" (or "data-only") broadband lines to end users who do not wish to purchase traditional voice telephone service with broadband service. The Rural Associations have further developed their proposal in comments in response to the *Public Notice*, and JSI supports the proposal as it continues to be developed.[3] The *Public Notice* also sought comment on facilitating rate-of-return carriers' participation in the Connect America Fund Phase II ("CAF Phase II"), including an option for RLECs to voluntarily convert from rate-

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[2] *Wireline Bureau Seeks Comment on Options to Promote Rural Broadband in Rate-of-Return Areas,* Public Notice, DA 13-1112 (rel. May 16, 2013) (*"Public Notice").*
[3] *Comments of NCTA – The Rural Broadband Association; the National Exchange Carrier Association, Inc.; the Western Telecommunications Alliance; and the Eastern Rural Telecom Association,* WC Docket No. 10-90 (June 17, 2013) ("Rural Association Comments").

of-return to price cap regulation. JSI supports the proposal to make universal service support available for stand-alone broadband, and JSI supports comments submitted by other rural carrier groups and associations also in favor of this proposal. In these reply comments, JSI provides input from rate-of-return carriers about increasing broadband deployment and adoption by offering stand-alone broadband, and how allowing recovery for stand-alone broadband loops would have a positive impact on rural broadband investment by rate-of-return carriers. In response to the second topic in the *Public Notice,* JSI believes that such a significant decision is premature and warrants considerable further study and analysis of how the Connect America Cost Model ("CAM") operates once it is implemented for price cap carriers. JSI also believes that the Federal Communications Commission ("FCC") should focus on developing a sufficient, predictable and effective CAF for rate-of-return carriers in the near term rather than spending its limited resources considering a still-unknown model for RLECs to participate in CAF Phase II. For now, JSI urges the FCC to first consider the standalone broadband proposal in the *Public Notice* and then return to the CAF Phase II discussion in a separate proceeding in the future.

I. RLECs Should Be Permitted to Recover Investments in Broadband Loops

In the November 2011 USF/ICC Transformation Order (*"USF/ICC Order"*),[4] the FCC adopted sweeping reforms to the federal high-cost Universal Service Fund ("USF") in order to shift the focus from legacy voice communications networks to modern high-speed broadband communications networks. Under the new rules, RLECs must provide broadband upon reasonable request to all customers in order to receive high-cost support for building and

[4] *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 a 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, *Universal Service – Mobility Fund,* WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov 18, 2011)(*"USF/ICC Order") pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. Filed Dec. 8, 2011).

maintaining the telecommunications plant. However, RLECs cannot receive high-cost support for offering a customer a "dry" or "stand-alone" broadband line without a landline voice connection, despite the fact that many broadband customers do not want a landline telephone, nor do they wish to pay for one in order to get the broadband connection that they truly need and want. RLECs are fully aware of the impact and increasing rate of landline cord-cutting, and JSI does not feel that it makes sense to continue requiring a service to be provided that the customer does not want or use in order to recover the costs of a joint-use loop. Industry forces and consumer demands are clearly moving away from the narrow scope that the existing rules encompass.[5] Additionally, landline cord-cutting continues to intensify the burden on the USF as revenues from the Subscriber Line Charge ("SLC") and Access Recovery Charge ("ARC") are lost, and recovery of standalone broadband would provide a new opportunity for RLECs to retain lines and charge a SLC for these lines.

JSI commends the intentions of the *Public Notice* to gather information and initiate a process for permitting recovery of standalone broadband lines, and urges the FCC to move forward with the proposal as it will help facilitate broadband deployment and adoption in rural areas. The proposal is consistent with the goals of the *USF/ICC Order* and Congressional intent of the Universal Service Fund. RLECs have done and continue to do an exemplary job of deploying broadband to far-reaching and extremely high-cost areas of the country, but further incentives are needed especially as other cost recovery mechanisms are either drying up or in a

[5] Recent data from the Centers for Disease Control ("CDC") illuminate how rapid and pervasive landline cord-cutting has become. The CDC data is explained in a June 18, 2013 USTelecom blog post: "CDC data indicate that the portion of U.S. telephone households that was wireless-only for voice service by the end of 2012 was approximately 40 percent and growing. Such wireless cord cutting, along with other landline alternatives, such as Voice over Internet Protocol (VoIP), have eroded the household share of traditional landline telephone providers…USTelecom has projected that the share of telephone households using traditional ILEC switched telephone service would fall to less than one-third at the end of 2012 and approximately one-quarter by the end of 2013." Brogan, Patrick. "Americans Continued to Drop Landlines in 2012." USTelecom blog, June 18, 2013 at http://www.ustelecom.org/blog/americans-continued-drop-landlines-2012?utm_source=TDL&utm_medium=email&utm_campaign=062613#sthash.czbRKfyb.dpuf .

stage of great uncertainty. Permitting cost recovery for standalone broadband will infuse much-needed incentives to invest and provide a boost of certainty and predictability to the high-cost support system; furthermore, the policy of supporting standalone broadband is squarely in the public interest and consistent with other industry and FCC proposals to transition the country's communications network from legacy voice telephony to IP-based broadband.[6]

a. RLEC Data and Input in Response to the *Public Notice*

In an effort to help the FCC develop a comprehensive record on permitting high cost recovery for standalone broadband lines, JSI requested data and input on several items addressed in the *Public Notice.* Some responses to JSI's information request are detailed below.

1. ***What percentage of your broadband customers subscribe to "dry" or standalone broadband (with no voice service)?***

   Responses varied between those that had no customers subscribing to standalone broadband to one having 26% of customers subscribing to standalone broadband (refer to Table A).

Table A: RLEC Standalone Broadband Data

Company	Voice/Data	Data Only	Data Only (%)
Company A	1,541	237	13%
Company B	3,672	439	11%
Company C	416	31	7%
Company D	1,201	163	12%
Company E	2,008	716	26%
Company F	1,601	165	9%
Company G	647	52	7%
Company H	1,060	262	20%
Company I	2,199	492	18%
Company J	1,790	-	0%
Company K	629	6	1%

[6] *Pleading Cycle Established on AT&T and NTCA Petitions,* Public Notice DA 12-1999 (rel. December 14, 2012).

2. ***What is the typical price difference between standalone broadband and a broadband and voice bundle?***

   Responses by RLECs showed that rates for standalone broadband were higher than broadband bundled with voice, with the difference depending on the options purchased by the customer. JSI observed that prices for standalone broadband can exceed 50% of the cost of a voice and broadband bundle.

3. ***How would the ability to recover standalone broadband loop costs impact your investment in broadband-capable facilities?***

   One RLEC that does not currently have standalone broadband noted that the company would provide standalone broadband if support was permitted for these loops. Another responded that subsides for a wider range of services will ensure continuing maintenance and investment in broadband facilities. A third explained that the ability to recover standalone broadband loop costs would have a dramatic impact on the company's investment in broadband-capable facilities. This company would regard receipt of such support in the same manner it does with USF support, i.e., by providing quality service throughout its area at reasonably comparable rates. However, economic realities prevent the company from achieving this absent USF support.

4. ***If standalone broadband cost recovery was permitted, how would it impact your service offerings and rates?***

   One RLEC stated that if broadband cost recovery is permitted, the impact on its service offerings would be **<u>revolutionary</u>**. The company would be able to extend and upgrade facilities throughout its rural service territory, thereby enabling it to provide up-to-date universal broadband service with bandwidth and prices comparable to urban markets. Another RLEC added that it could potentially lower standalone broadband prices to encourage new sales. Customers are currently incentivized to keep voice lines because the price of broadband is lower with a voice line. A third respondent stated that the company would expect its service offerings to be expanded to include greater bandwidth, and it would maintain stable rates and service quality.

II. Response to Comments

JSI notes that the majority of comments in response to the *Public* Notice were extremely supportive of the standalone broadband proposal. JSI joins the Rural Associations and other rural carriers in the widespread support for permitting recovery of standalone broadband loops. The National Cable and Telecommunications Association ("NCTA") provided the only opposition to this proposal, arguing that support for broadband should only be targeted to rate-of-return areas with no unsubsidized competitors providing broadband, consistent with the rules for the price cap CAF.[7] JSI feels that NCTA's arguments constitute a backdoor approach to eliminating rate-of-return regulation. NCTA's recommended requirement that broadband loops should only be supported in areas with unsubsidized competitors would deter future investment by RLECs and it contradicts long-standing Carrier of Last Resort ("COLR") obligations that require RLECs to serve all customers within their study areas regardless of the presence or absence of competitors. The loop must continue to be supported in rate-of-return areas in order for RLECs to fulfill COLR obligations, and a departure from this long-standing system of support would require disaggregation, which the FCC rejected in the *USF/ICC Order*.

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[7] *Comments of the National Cable and Telecommunications Association,* WC Docket No. 10-90 (June 17, 2013) ("NCTA Comments") at 1.

JSI agrees with comments submitted by the United States Telecom Association ("USTelecom"), which point out the practicality and common sense of treating all broadband-enabled loops to end users as "joint use" facilities regardless of which services a customer uses. USTelecom explains, "Whether an RLEC's customer subscribes to voice and broadband or just to broadband does not change the fact that the loop must be provisioned by both services."[8] USTelecom continues, "Loop plant is not traffic sensitive, so whether or not a voice subscriber actually makes voice calls during a month, or even whether the voice service is subscribed to or not, does not impact the RLEC's loop costs."[9] JSI agrees with USTelecom that supporting standalone broadband is simply good public policy and consistent with the goals of the *USF/ICC Order*. Further, as USTelecom says, "It is unfortunate and ironic that the *Order*, which aims to modernize the high-cost universal service program to ensure availability of voice and broadband service, and impose a broadband obligation on rate-of-return carriers, is the very same *Order* that denies funding to RLECs for providing broadband service when it is on a standalone basis."[10] In essence, not supporting standalone broadband has no positive practical or policy outcome, and "is contrary to the goal to remove barriers to evolution to an all IP network, and the deployment and adoption of broadband facilities and services."[11]

III. The FCC's Consideration of CAF Phase II for RLECs is Premature

The FCC's decision to explore ways to include rate-of-return carriers in CAF Phase II is commendable, albeit premature. The FCC has not yet released a solid proposal for a rate-of-return CAF, and too many uncertainties presently exist in the high-cost support program that must be addressed before any RLEC can conceivably make an informed investment decision

[8] *Comments of the United States Telecom Association,* WC Docket No. 10-90 (June 17, 2013) ("USTelecom Comments") at 2.
[9] *Id* at 2.
[10] *Id* at 3.
[11] *Id* at 3.

about broadband expansion, much less whether or not to voluntarily elect a new regulatory treatment. The FCC needs to address the well-documented and severe issues with quantile regression analysis and complete its analysis of represcribing the authorized rate of return in a timely and thorough manner before nudging RLECs to a different method of regulation. As the regulatory environment for RLECs becomes more stabilized and predictable, and as the efficacy and sustainability of model-based support and the CAM are further developed and can be tailored to RLECs, the discussion of including RLECs in CAF Phase II can continue.

IV. Conclusion

JSI encourages the FCC to quickly move forward with finalizing rules to permit RLECs cost recovery for standalone broadband lines. The *Public Notice* received widespread support from the rural telecommunications industry, and RLECs would clearly welcome new opportunities and expanded options for cost recovery of broadband investment. The proposal is consistent with the public interest, the goals of the Universal Service Fund, and the *USF/ICC Order*. JSI also encourages the FCC to continue developing the record on ways to transition RLECs to model-based support for new broadband investment, but cautions that the CAM needs to be implemented, analyzed, and modified for RLECs, and other aspects of RLEC high-cost support need to be resolved in the near-term.

Respectfully submitted,

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