

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

<p>In the Matter of</p> <p>High-Cost Universal Service Support</p> <p>Federal-State Joint Board on Universal Service</p>	<p>WC Docket No. 05-337</p> <p>CC Docket No. 96-45</p>
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COMMENTS OF JOHN STAURULAKIS, INC.

1. INTRODUCTION

John Staurulakis, Inc. (JSI) hereby files these comments in response to the Federal Communications Commission’s (“FCC’s”) three Notices of Proposed Rulemaking (“NPRMs”) released January 29, 2008.¹

JSI is a consulting firm offering regulatory, financial and business development services to more than two hundred rate-of-return rural incumbent local exchange carriers (“LECs”) throughout the United States, all of which receive high-cost universal service support (“USF”). JSI also provides consulting services to small, rural wireless carriers that have been designated as eligible telecommunications carriers (“ETCs”) and receive USF. Inasmuch as the Commission

¹ High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-22 (rel. Jan. 29, 2008) (*Recommended Decision NPRM*) which includes Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-4 (Fed.-State Jt. Bd., rel. Nov. 20, 2007); High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-4 (rel. Jan. 29, 2008) (*Identical Support Rule NPRM*); High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-5 (rel. Jan. 29, 2008) (*Reverse Auctions NPRM*).

Joint Board seeks comment on federal universal service, JSI is an interested party in this proceeding and accordingly files these comments.

The several federal universal service programs have a track record in providing predictable and sufficient support to rural incumbent local exchange carriers (“ILECs”) in a manner that is efficient and practical. One touchstone of each of these programs is the realization that all costs are actual costs realized in the procurement and maintenance of a modern telecommunications network. Today, federal universal service support plays a critical role in the development and maintenance of the public switched telephone network. Upon review of the issues raised in the three NPRMs, JSI recommends the Commission take actions designed to support and reinforce the longstanding aims of the program. JSI does not believe all recommendations support and reinforce the aims of the program. There are several items raised in the NPRMs that JSI judges to be detrimental to the aim of federal universal service and consequently, JSI strongly recommends the Commission not adopt these items. JSI also notes the complete lack of any discussion on reforms aimed at expanding the contribution base and the development of the contribution factor. This omission is lamentable inasmuch as contribution factor reform, especially the expansion of the contribution base, is a critical component in providing stability to the program. This stability is desperately needed especially if the Commission were to define universal service more broadly to include a mobility component and a broadband component.

In these comments JSI will briefly highlight several issues it judges to be of utmost importance in this proceeding.

2. THE IDENTICAL SUPPORT RULE SHOULD BE ELIMINATED

The Commission's tentative conclusion that the "identical support" rule should be eliminated is sound and should be the first step in any federal reform agenda.² This rule is founded on a premise that has proven to be faulty. The Commission has already studied this rule and the underlining principle of competitive neutrality and has concluded that "the predictions of the Joint Board and the Commission have proven inaccurate...."³ Furthermore, federal universal service support distributed under the identical support rule has nothing to do with the actual cost of providing service in rural areas. To remedy this situation, the Commission has tentatively concluded that competitive ETCs should receive support based on their own costs instead and require CETCs to file cost data demonstrating their per-line costs to provide service in order to receive universal service support.⁴ We also support the Commission's tentative conclusion that CETCs are not eligible to receive Interstate Access Support or Interstate Common Line Support. These mechanisms are designed to recover interstate access costs: these costs are also currently capped by subscriber line charge rates. CETCs are not affected by these rules and thus should not receive support from these access cost recovery programs. We also recommend the Commission limit the amount of support a start-up CETC may receive. We agree with the observation of the Commission that the ILECs' per-line support from the High Cost Support program is a suitable limit for CETCs with vastly smaller subscribers in a study area served by an ILEC. We recommend the Commission implement these items prior to adopting other

² Identical Support Rule NPRM FCC 08-4 at 1.

³ *Id.* at 9.

⁴ *Id.* at paragraphs 12-13. Including a possible cap on CETC per line support at the ILEC level.

distribution reforms as these measures will go a long way in stabilizing the federal universal service programs.

3. REVERSE AUCTION PROPOSAL SHOULD BE REJECTED

JSI recommends the Commission's reject its tentative conclusion that it should develop an auction mechanism to determine high-cost universal service support.⁵ Any possible advantages from reverse auctions for federal high cost universal service fund disbursement will be offset with a multitude of disadvantages. Foremost among these include the chilling effect reverse auctions will have on investment in infrastructure in rural areas of the nation. We also agree with those who observe that service quality in rural areas will likely deteriorate when reverse auctions are used to distribute support. JSI has already provided comments to the Federal-State Joint Board on this topic and we request these comments be incorporated as part of this proceeding.⁶

4. PRIOR TO ANY LONG-TERM REFORM, CONTRIBUTION REFORM MUST OCCUR

Tellingly absent from any discussion in the NPRMs is the concept of contribution reform. Although the Commission has been considering ways to reform the methodology used to assess contributions to USF since 2001,⁷ it has yet to adopt any fundamental changes. Instead, only

⁵ Reverse Auctions NPRM FCC 08-5 at 1.

⁶ See *Comments of John Staurulakis, Inc.* filed October 10, 2006 in WC Docket No. 05-337 and CC Docket 96-45.

⁷ See *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review -- Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990 Administration of the North American Numbering Plan and North American Numbering*

“interim revisions” to the way that the Commission assesses contributions have been made.⁸ In its *USF Contribution Methodology Order*, the Commission found that the revenue base was declining while the disbursement needs were increasing. According to the Commission, this placed upward pressure on the USF contribution factor and jeopardized “the immediate sufficiency and stability of the support mechanisms.”⁹ In seeking to address this problem through interim measures, the Commission then raised the interim wireless safe harbor percentage and established USF contribution obligations for interconnected VoIP providers. The goal of the Commission in taking such actions was to provide stability to the fund in the short-term while committing to continuing to press forward with more fundamental reform of the contribution methodology.¹⁰

JSI believes it necessary to address squarely the contribution base prior to moving forward with the arduous process of seeking to reform the entire universal service mechanism. Without taking this essential step, the sufficiency and stability of the very fund that the reforms are intended to address would be placed in even greater peril.

Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, Notice of Proposed Rulemaking, 16 FCC Rcd 9892 (2001).

⁸ Universal Service Contribution Methodology, Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-In-Billing and Billing Format, IP-Enabled Services, Report and Order and Notice of Proposed Rulemaking, WC Docket Nos. 06-122 and 04-36, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, and 98-170, 21 FCC Rcd 7518 (2006) (*USF Contribution Methodology Order*) at para. 16 *aff’d in part, vacated in part, Vonage Holdings Corp. v. FCC*, 489 F3d 1232, 1244 (DC Cir 2007) (“*Vonage v FCC*”).

⁹ *Id.* at 18.

¹⁰ *Id.* at 21.

5. FCC SHOULD REJECT THE JOINT-BOARD'S PROPOSED OVERALL CAP AND CAP OF INDIVIDUAL PROGRAMS

JSI recommends the Commission set-aside the Joint-Board's recommendation to cap the overall fund and cap individual programs during a transition period. The Joint Board recommended placing a \$4.5 billion cap on the total fund this does not meet the Congressional mandate found in 47 U.S.C. § 254(b)(5) that the fund be specific, predictable and sufficient to preserve and advance universal service. The Joint-Board has made no findings to demonstrate that \$4.5 billion is sufficient to fulfill the current purposes of the fund without even considering expanding federal universal service aims to include a mobility and broadband component. At best, it appears to JSI that the Joint Board arbitrarily chose \$4.5 billion to avoid increasing the burden on consumers who pay universal service contributions. Without well developed conclusions addressing the sufficiency of the support level to meet current and new federal universal service aims, a cap on the program is not in the public interest.

6. CONCLUSION AND SUMMARY

Federal universal service support plays a critical role in ensuring that rural ILECs continue to be able to provide reliable high-quality telecommunications services to the rural communities they serve in a manner that is efficient and practical. Accordingly, any proposals in the NPRMs which help to ensure the stability of the federal universal service support programs should be adopted. One such proposal is the elimination of the "identical support" rule. Adoption of this proposal should be the first step in any federal reform agenda because it not only will help to stabilize the federal universal service programs but the elimination of this rule is

appropriate given that CETCs should not be eligible to receive support from mechanisms that are designed to recover interstate access costs.

JSI demonstrates, however, that some of the other proposals in the NPRMs would be detrimental to the aims of the federal universal service support program must be rejected. These include the tentative conclusion that the Commission should develop an auction mechanism to determine high-cost support and the Joint Board's recommendation to cap the overall fund and cap individual programs during a transition period. JSI also demonstrates that in the NPRMs, the Commission tragically omits any discussion on reforms aimed at expanding the contribution base and the development of the contribution factor, a critical component in providing stability to the program. Accordingly, JSI urges the Commission to address squarely the contribution base prior to moving forward with the arduous process of seeking to reform the entire universal service mechanism.

Respectfully submitted,

April 17, 2008

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