

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	WC Docket No. 05-337
Using Auctions to Determine)	
Universal Service High Cost Support)	

**COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (“NCTA”) hereby submits its comments in the above-captioned proceeding. For the reasons explained below, NCTA supports the use of reverse auctions as a mechanism for setting a more efficient level of universal service funding for high-cost areas.

INTRODUCTION AND SUMMARY

NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving more than 90 percent of the nation's cable television households and more than 200 cable program networks. The cable industry is the nation’s largest broadband provider of high-speed Internet access after investing \$100 billion over ten years to build a two-way interactive network with fiber optic technology. Cable companies also provide state-of-the-art telephone service to over seven million American homes and are rapidly making these services available nationwide.

The entry of cable operators into the telecommunications marketplace unquestionably is good news for consumers across America. According to a recent J.D. Power report, cable phone

customers are saving over \$10 a month on their phone bills.¹ Based on the projected growth of cable phone services, MiCRA recently projected that the total anticipated consumer benefit from competition over the next five years will total more than \$100 billion.²

Cable operators increasingly are bringing the benefits of their competitive telephone services to rural areas. With appropriate changes in how funding is calculated, the presence of cable operators and other facilities-based competitors in high-cost areas ultimately should reduce the need for federal universal service support.

The cable industry commends the Joint Board for recognizing that competitive and technological developments may warrant changes in the federal universal service program. In particular, NCTA supports the Joint Board's decision to explore the use of reverse auctions. Reverse auctions should reduce the size of the federal Universal Service Fund and thereby reduce the burden on consumers that fund the program, while also providing a means for distributing funds to the most efficient providers in a market, regardless of the technology used or the regulatory classification of the provider.

I. CABLE OPERATORS SUPPORT EFFORTS TO CONSTRAIN THE GROWTH OF THE HIGH-COST FUND.

The preservation and promotion of universal service is one of the Commission's most important jobs. The federal universal service support program provides funding to companies that serve areas where market forces historically might not have resulted in all customers being served. These market forces, however, are not static. Improvements in technology, particularly the transition to IP-based equipment and services, have made it possible for cable operators and

¹ Press Release, *J.D. Power and Associates Reports: Cable Companies Dominate Customer Satisfaction Rankings for Local and Long Distance Telephone Service* (July 12, 2006).

² See *Consumer Benefits from Cable-Telco Competition*, Microeconomic Consulting and Research Associates (available at www.micradc.com/news/news/html).

other facilities-based competitors to serve areas that previously might not have supported competitive entry. Similarly, incumbent LECs increasingly are able to provide multiple services (including DSL and video) over infrastructure previously used solely to provide telephone service. This transition to markets in which there is facilities-based competition for voice and non-voice services calls into question the need for continued government funding at historical levels, and may eventually permit the total elimination of high cost support in at least some markets.³

While the changing economics of building and operating networks in rural areas should have the effect of reducing the overall amount of federal support that is needed, that has not happened. Instead, the overall size of the federal Universal Service Fund, and the burden on American consumers, has grown significantly in recent years.⁴ Absent changes to the program, this trend shows no signs of abating, as a report from the Congressional Budget Office concluded earlier this year.⁵

The continued growth in the size of the fund is a matter of significant concern to the cable industry. Cable operators providing voice services are required to contribute to the Universal Service Fund,⁶ and as with other providers that pay into the fund, these costs ultimately are borne by consumers. Based on the anticipated growth of cable telephony services, and the corresponding growth in the share of the program that will be funded by cable

³ As NCTA has explained previously, the development of facilities-based competition in rural areas is threatened by difficulties obtaining interconnection with incumbent LECs. *See* Comments of NCTA at 7-8, WC Docket Nos. 06-54, 06-55 (filed Apr. 10, 2006).

⁴ *See Factors That May Increase Future Spending from the Universal Service Fund: A CBO Paper* at 1 (Congressional Budget Office, June 2006) (“Outlays from the Universal Service Fund have grown more than 50 percent in the past six years and now total about \$7 billion annually.”).

⁵ *Id.* (“Spending for that program could double again in the next few years”).

⁶ *See Universal Service Contribution Methodology*, WC Docket No. 06-122, Report and Order and Notice of Propose Rulemaking, FCC 06-94 (rel. June 27, 2006).

consumers, NCTA supports efforts by the Commission and the Joint Board to reduce the burden of federal support programs by more efficiently distributing support. Updating the record on the potential use of reverse auctions is a positive step in this direction. As we explain below, reverse auctions offer an opportunity not only to reduce the size of the fund, but also to promote competition in high-cost areas by making support available on a more equitable basis.

II. REVERSE AUCTIONS, IF STRUCTURED PROPERLY, OFFER A PROMISING MEANS TO ACHIEVE THE GOAL OF CONSTRAINING FUND GROWTH AND MORE EFFICIENTLY DISTRIBUTING HIGH-COST SUPPORT.

Universal service support is intended to facilitate the provision of supported services in areas that otherwise might be prohibitively expensive to serve. As technology develops and more efficient competitive networks increasingly extend to rural areas, the overall level of federal support necessary to provide these services should be declining. Yet current rules have precisely the opposite effect, as both incumbents and competitors receive support for serving high-cost areas, with only competitors' support limited to customers actually served.

The challenge facing the Commission is to reduce the burden on consumers and promote efficient competition, without sacrificing the level of service provided in these areas today. NCTA believes an auction program can achieve these goals if it incorporates the following core requirements:

1) Small service areas. Reverse auctions can be effective only if they cover relatively small service areas. This is critical to ensuring that the bidding process is competitively and technologically neutral. NCTA supports the use of census block groups (CBGs), as the California High Cost Fund-B uses,⁷ or some equally small area. The use of a small service area, such as a CBG, is vital to enabling facilities-based competitors to bid because they otherwise

⁷ See *Universal Service and Compliance with the Mandates of Assembly Bill 3643*, D.96-10-066 (CPUC 1996).

might be unable to comply with a carrier-of-last-resort obligation. Another advantage of CBGs is that they are competitively and technologically neutral because they do not conform to the boundaries of any particular type of service provider, nor are they defined by the use of any particular technology. Conversely, use of ILEC study areas is not competitively neutral because competitive networks typically do not follow ILEC boundaries. For example, cable networks tend to follow municipal boundaries because cable operators are subject to municipal franchising requirements, while wireless networks generally do not follow state or municipal boundaries.

2) Minimum service requirements. As with the current distribution mechanism, regulators must establish the minimum level of service to be offered and obligations that must be met by all bidders. Establishing a clear set of minimum service requirements, including some sort of carrier-of-last-resort obligation, will ensure that the fundamental goal of providing service to all consumers is met. Use of the Commission's current definition of supported services would ensure that consumers in auction areas receive at least the same level of service as consumers under the current system.⁸ Any facilities-based provider that commits to meeting these requirements should be eligible to participate in the auction.

3) Facilities-based providers. The Commission should require bidders to offer services using their own wired or wireless connection to the end user.⁹ The Commission repeatedly has recognized the benefits of facilities-based competition,¹⁰ and one of the primary purposes underlying the use of auctions is to bring these benefits to rural areas. Limiting support to those

⁸ 47 C.F.R. § 54.101. Although bidders should be obligated to provide this basic level of service, they should not be prohibited from offering such service packaged with other services. Consumers increasingly are purchasing all-distance service packages and there is no point in requiring companies to offer local service and toll service separately as a condition of receiving universal service support.

⁹ *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8844-76, ¶¶ 150-180 (1997) (discussing Section 214(e)(1) facilities requirements).

¹⁰ *See, e.g., Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, 20 FCC Rcd 4685, 4701 ¶ 31 (2006).

companies that operate their own facilities will provide an important incentive for the construction of competitive networks.

4) Interconnection. Eligibility to participate in an auction and receive the resulting support amount should be contingent on accommodating requests for interconnection. Incumbent carriers should not be permitted to collect government funding for their networks, while at the same time blocking competitive entry and foreclosing the introduction of more efficient, innovative technologies that will provide the ultimate cure for high cost networks.

5) No guaranteed support. Neither incumbent LECs nor any other providers should be “made whole” through a government subsidy if they receive less support than they did before the introduction of auctions. Any type of guaranteed support or other guaranteed revenue stream would completely undercut the rationale for moving to an auctions-based system, which is to reduce the overall amount of support provided by the program. Moreover, the availability of a guaranteed level of universal service funding would skew the bidding because incumbents would be able to bid at artificially low support levels. For auctions to be consistent with the Commission’s policy of competitive neutrality, all facilities-based companies should have the same opportunity to participate in an auction and they all should face the same consequences if they lose the auction.

6) Timing. For each area subject to auction, auctions should be conducted on a periodic basis no longer than every three years. As technology develops and companies continue to expand their networks, the amount of support needed to serve any particular geographic area should continue to decline to reflect increased efficiencies. Conducting auctions on a sufficiently short periodic basis will ensure that support is reduced to the lowest level necessary to provide supported services in that area.

CONCLUSION

For all the reasons explained above, NCTA supports the Joint Board's efforts to limit growth in the Universal Service Fund by adopting a reverse auction mechanism for distribution of funds.

Respectfully submitted,

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