

**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

FCC 11-13

COMMENTS OF THE NORTH DAKOTA PUBLIC SERVICE COMMISSION

The North Dakota Public Service Commission (ND PSC) writes regarding a number of proposals outlined in the Federal Communications Commission (FCC) Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking (NPRM) concerning the Universal Service Fund (USF) and the proposed Connect America Fund (CAF). The comments speak to the need for services in rural areas reasonably comparable to those in urban areas, minimizing constraints for cost recovery of investment or operations expenses for high-cost rural areas, and reform of intercarrier compensation.

The ND PSC looks forward to working with the FCC to develop regulatory mechanisms that ensure, consistent with Congressionally-mandated Universal Service policies, that rural consumers have access to reasonably comparable services, and at reasonably comparable rates. We ask that the FCC take careful account of the implications of the various steps it proposes to take in the NPRM. We are confident the

FCC will reject reforms that lead to decreased service quality, reduced network availability, or telecommunications rates that are not viable in rural America.

Background

North Dakota is a leading producer of many agricultural products that factor greatly into our Nation's food and economic lifelines. North Dakota is the Nation's highest producer of: spring wheat; durum wheat; barley; all edible dry beans; navy beans; pinto beans; canola; flaxseed; dry edible peas; lentils; honey; and, sunflowers. North Dakota's beef industry constitutes approximately \$600 million of the state's annual agricultural income. North Dakota corn production enables the Nation's needs for human consumption, cattle feed, and industrial uses such as biodegradable products and fuel. North Dakota is also one of the few places where potatoes are grown for all four major uses - fresh, processed, chips, and seed. North Dakota's agricultural industry generates more than \$4.1 billion annually in cash receipts.

Increasingly, North Dakota's agricultural efforts are turning to on-line applications for information, sales, and management. Cattle auctions are increasingly conducted on-line, and crop management is increasingly improved with access to updated information that enables proper farming and production strategies. Continued advancements in these regards, including the ability of citizens to connect to advanced broadband networks, will play an integral role in North Dakota's economic well-being. Nearly 24 percent of our citizens are employed directly by production agriculture or agriculture-related industries. North Dakota's success in these areas is vital, by extension, to the Nation's domestic and foreign-trade food supply.

North Dakota is also at the forefront of the Nation's renewed emphasis on energy independence. The State is the fourth largest producer of oil and is one of our country's leaders in biofuels, biomass, wind and coal energy. Much of that power is exported out-of-state to benefit citizens throughout the United States.

The State also serves a critical role as a defender of United States interests with its shared border with the Canadian provinces of Manitoba and Saskatchewan.

North Dakota's rural economy plays a critical role in agricultural and manufacturing industries upon which the Nation relies and broadband is a major driver of economic, educational, and health-related welfare.

Reasonably Comparable Services in Rural and Urban Areas

As the FCC and other federal bodies have observed, the cost of communications infrastructure deployment increases as population densities decrease. According to 2010 U.S. Census data, the average population density in the United States is 87.4 persons per square mile; the average population density in North Dakota is 9.7 persons

per square mile. Most of our state's telephone companies serve areas with dramatically lower population densities than the state average. For example, BEK Communications Cooperative, in the south-central portion of our state, serves approximately 6,500 access lines in an area that measures 1.3 people per square mile; North Dakota Telephone Company, which boasts approximately 15,000 access lines, serves an area that measures only 2.78 people per square mile. North Dakota has approximately 30,000 family farms and ranches with an average size of 1,300 acres. The FCC must ensure that these citizens have access to the services that are reasonably comparable to those available to their urban peers, and at reasonably comparable rates. That outcome will facilitate their ability to take advantage of advanced and efficient processes, and to maintain their agricultural leadership from which we all benefit.

USF Reform

We applaud the FCC's recommendation that changes to the USF and to intercarrier compensation (ICC) mechanisms, and the introduction of the CAF, be achieved in "near-term" and "long-term" transition periods. This approach recognizes the need to avoid regulatory and market shock that could arise from seismic changes to fundamental regulatory mechanisms. We also applaud the FCC's continuing interest in ensuring robust broadband throughout the country - for example, the consideration of how to support the costs of middle mile capacity as first stated in the National Broadband Plan and now set forth in the NPRM is essential if consumers in rural America will have broadband access at affordable rates and at speeds reasonably comparable to those in urban areas.

Caps, constraints, or benchmarks for cost recovery must be designed carefully. There is a distinct difference in the investment required to serve an area with 6,500 customers in 10,000 square miles and that needed to serve the same number of customers in 10 square miles; what works as a cap or constraint in the latter could be disastrous to apply to the former. The design of any caps, constraints, or benchmarks for cost recovery is certainly complicated by differences in size, customer base, customer density, serving area size, topography, cost-of-living in a given area, as well as other factors.

Caps, constraints, or benchmarks for cost recovery must be implemented on a going-forward basis only. North Dakota's telecommunications carriers have made extensive investments in their networks under existing cost recovery mechanisms, in many instances facilitated by Rural Utilities Service loan programs, and recovery of those investments should not be jeopardized by retroactive application of cost recovery changes.

Further, we welcome an investigation into the degree to which a provider might achieve greater efficiencies in corporate operations before the cost recovery of corporate overheads is eliminated. As the NPRM is written, we believe the proposed

elimination of all corporate operations expenses would ultimately harm customers through higher rates or poor customer service.

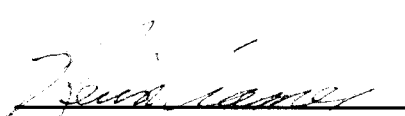
ICC Reform

As ICC reform is analyzed, both the level of recovery and the transition path, we urge the FCC to concurrently analyze the impact that such reform will have on the USF program. In addition, we urge the FCC to include in ICC, treatment of VoIP and phantom traffic.


The impact on North Dakota citizens that will result from FCC decisions on these issues is of great concern to the ND PSC and we appreciate the FCC's thorough analysis of such complex issues.

Dated: March 24, 2011
Respectfully Submitted,

**State of North Dakota
Public Service Commission**



Kevin Cramer
Commissioner



Tony Clark
Chairman



Brian P. Kalk
Commissioner