

**BEFORE THE HOUSE COMMITTEE ON ENERGY AND COMMERCE**

**SUBCOMMITTEE ON COMMUNICATIONS,  
TECHNOLOGY, AND THE INTERNET**

**Hearing on the Universal Service Fund**

**March 12, 2009**

**TESTIMONY OF ROBERT STEVEN DAVIS**

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PUBLIC POLICY AND GOVERNMENT RELATIONS  
QWEST COMMUNICATIONS INTERNATIONAL INC.**

Good morning Mr. Chairman and Members of the Committee. My name is Steve Davis, and I am Senior Vice President for Public Policy and Government Relations for Qwest Communications International Inc. Today I am here on behalf of Qwest Corporation, which operates as an incumbent local exchange carrier (ILEC) in fourteen mid-western and western states and Qwest Communications Company, LLC, which operates a long-haul long distance network and one of the world's largest Internet backbones. I appreciate the opportunity to share Qwest's views on the federal universal service fund (FUSF) with you at today's hearing.

## **I. ABOUT QWEST.**

Before I address the universal service issues directly, I would like to tell you a bit about Qwest and why we care so much about these issues. Qwest provides voice, data, Internet and video services nationwide and globally. Qwest's ILEC serving area spans the distance from roughly the Mississippi River on the East, the Pacific Ocean on the West, Canada on the North and Mexico on the South. Qwest provides service in Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Its serving territory in these fourteen states encompasses 272,000 square miles. As of December 31, 2008, Qwest provided 11.6 million voice grade access lines and 2.8 million broadband lines to customers in its territory<sup>1</sup> and currently has broadband available to 86 percent of its customer base.

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<sup>1</sup> Form 10-K of Qwest Communications International Inc., filed with the U.S. Securities and Exchange Commission, Feb. 13, 2009, at 2.

Qwest's ILEC territory is diverse. It includes dense urban areas, smaller cities and towns, farmlands in rich agricultural areas, areas of dry land farming, national forest areas, bureau of land management areas, mountainous areas including national park areas, desert areas, and areas with a great number of lakes. It includes many rural communities and areas of low household density. In many cases the low density areas served by Qwest are also an extended distance from the nearest town.

Qwest has 1,310 local switching wire centers. These wire centers serve as a central point where the local customers are physically connected to the Public Switched Telephone Network (PSTN). Of these wire centers, 553 – 42% – are located outside of metropolitan areas.<sup>2</sup> These 553 wire centers serve 2.2 million access lines.

Qwest serves many areas with low population density which results in low local loop density. The local loop is the physical plant that connects the customer's premises to the customer's serving wire center. Fewer customer premises for large areas result in low local loop density. For example, Qwest's wire centers in Lusk, WY and Gunnison, CO, have serving areas nearly three times larger than the entire state of Rhode Island.<sup>3</sup> But, the Lusk wire center has a local loop density of fewer than one access line per square mile and Gunnison has fewer than five access lines per square mile. By contrast, here within the Washington, D.C. city limits there are approximately 10,000 access lines per square mile.<sup>4</sup>

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<sup>2</sup> Specifically, these are metropolitan areas defined as U.S. Census Bureau Metropolitan Statistical Areas (areas with more than 50,000 population).

<sup>3</sup> Both the Lusk and Gunnison wire center serving areas are approximately 2,900 square miles.

<sup>4</sup> Washington, D.C. proper is 68.3 square miles. [http://en.wikipedia.org/wiki/Washington,\\_D.C.](http://en.wikipedia.org/wiki/Washington,_D.C.) Verizon has reported 668,803 access lines in D.C. to NECA. The NECA file is available at the following link: <http://www.fcc.gov/wcb/iatd/neca.html>. The file from the 2007 Report is in the zip file USF08R07.zip and the file within the zip is USF2008LC08. The switched access line count for Verizon of DC is in cell R990.

In fact, Qwest has 34 wire centers that serve an area comparable to the area of Rhode Island or larger. Qwest has 175 wire centers with local loop density of fewer than ten access lines per square mile. Additionally, as would be expected in extremely low density areas, Qwest serves local loops of extremely long length. For example, in the wire centers of Douglas, Wyoming and Gillette, Wyoming, Qwest serves customers with local loops in excess of 75 miles.

The extremely rural nature of many of Qwest's wire centers significantly increases its cost of providing basic local telephone service and broadband service in these rural areas relative to the costs for providing these services in more urban areas. This is due to several factors. The low density of its rural serving areas as described above results in increased costs per customer access line as fixed costs are spread over fewer lines. And, the extremely long loop lengths result in significantly increased costs to place and maintain the physical plant from the central office to the customer's premises. Still further, the rocky and mountainous terrain that is encountered in much of Qwest's ILEC region as well as significant lake regions, in which it is harder to place and maintain physical plant, also drives up the cost of providing basic telephone service to customers in those areas.

And, Qwest faces robust competition in providing communication services throughout its ILEC region. In each state in Qwest's ILEC territory state regulators have found that there is sufficient competition in the provision of telecommunication services to afford reduced regulation or full deregulation of those services.

In spite of the significantly rural nature of its ILEC service territory, Qwest receives very limited high-cost federal universal service support. Although Qwest serves

extremely rural areas in all fourteen of the states in its ILEC territory, Qwest only receives high cost support in four states: Montana, Wyoming, Nebraska and South Dakota. Thus, in Gunnison, Colorado, where Qwest has a local loop density of five access lines per square mile in a service area larger than the size of Rhode Island as I mentioned earlier, Qwest receives no federal high-cost support. In fact, while there can be no doubt that Qwest provides service to many rural areas of the country, for purposes of universal service, Qwest is considered a “non-rural” carrier and is only eligible for limited support from the federal “non-rural” universal service fund.<sup>5</sup> In 2009 Qwest is projected to receive approximately \$25 million in support from the high cost fund, or approximately 7% of the projected \$337 million of high cost support for areas served by “non-rural” carriers, which is only 1% of the total \$2.3 billion in high cost support for “rural” and “non-rural” carriers.<sup>6</sup>

## **II. CONGRESSIONAL REFORM OF THE UNIVERSAL SERVICE FUND IS NEEDED TO ENABLE EFFICIENT DISTRIBUTION OF HIGH-COST SUPPORT AND TO FURTHER UNIVERSAL BROADBAND DEPLOYMENT.**

Qwest commends Chairman Boucher for his long-standing recognition of the need for universal service reform and for holding this hearing to address these important issues. Qwest supported the proposed Universal Service reform bill of Chairman Boucher and Congressman Terry in the last Congress and we look forward to continued efforts to accomplish significant universal service reform in this Congress.

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<sup>5</sup> Qwest has three small rural affiliates that receive Federal USF:

- El Paso County Telephone which has 4,585 lines and receives \$0.5M in rural high cost support;
- Northern Idaho which has 27,733 lines and receives \$0.4M in rural high cost support;
- Malheur Telephone which has 11,908 lines and receives \$0.6M in rural high cost support.

The \$1.5M in rural high cost support is included in Qwest’s total Federal high cost support of \$25M. Line data is from the Universal Service Monitoring Report for 2008 Table 3.31 and Federal High Cost Support data is from USAC report HC-01 for 2<sup>nd</sup> Quarter 2009.

<sup>6</sup> Data is based on USAC HC-01 2Q09.

There are a wide range of issues to be considered in comprehensive universal service reform, including improving administration of the fund, improving the methodology for contributions to the fund, and improving each of the four programs: high-cost support, low-income support, schools and libraries support, and rural healthcare support. Additionally, some will argue that universal service is no longer necessary to support basic voice services. My testimony, today, however, starts from the premise that universal service support for basic voice services in areas where it is not economical for any carrier to provide service not only continues to be necessary, but must be reformed to accomplish its core purpose of universal access to telecommunications service. And while all of these issues are worthy of significant discussion, in this testimony I am going to focus on two key issues: reform of the high-cost support program and universal service support for broadband deployment. The high-cost support program should be reformed such that distribution of high-cost support is company and technology neutral. That is to say that support to high-cost areas should not depend on the type of company providing the service or the type of technology used. And, high-cost support should not subsidize competition. As the FCC has stated, “The purpose of high-cost universal service support is to help provide access to telecommunications service in areas where the cost of such service otherwise might be prohibitively expensive.”<sup>7</sup> Subsidizing multiple carriers in an area where it is uneconomic for even one carrier to provide service is at cross purposes with the goal of universal access to telecommunications service. Qwest agrees with the

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<sup>7</sup> *In the Matter of Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket Nos. 96-45 and 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244, 11251 ¶ 13 (2001) (citation omitted) (*MAG Order*).

Federal-State Joint Board on Universal Service (Joint Board) and the FCC that the current universal service rule which provides the same per-line high-cost universal service support that an ILEC receives to competitive eligible telecommunications carriers (CETCs) (known as “the identical support rule”) should be eliminated.<sup>8</sup> In today’s competitive marketplace, high-cost universal service support should be based on the area served – not the company providing the service or the technology used – and each carrier’s costs to provide the supported services.

In addition to reforming high-cost support for basic voice services, as Chairman Boucher, Representative Terry and others on this subcommittee have recognized, Congress should authorize universal service support for broadband deployment to unserved areas.

**A. High-cost Support Should Be Company And Technology Neutral.**

Currently, there are different mechanisms for distributing high-cost support to “rural” carriers and “non-rural” carriers, even though these carriers serve similarly-situated high-cost areas. The reason for this is that in implementing the universal service provision of the 1996 Telecommunications Act, the FCC determined that high-cost universal service support should be determined based on forward-looking cost mechanisms, instead of the then-existing method of using carriers’ embedded (historical) costs.<sup>9</sup> But, while the FCC concluded that larger carriers that served urban and rural areas would be able to immediately make the transition, smaller carriers needed more

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<sup>8</sup> The Federal-State Joint Board on Universal Service is a board that Congress required the FCC to create to make recommendations to the FCC regarding its universal service rules. *See* 47 U.S.C. § 254(a)(1). Also, in order to receive federal high-cost support a carrier must be designated as an “eligible telecommunications carrier” (ETC) under 47 U.S.C. § 214(e). Any carrier who is designated an ETC in an area already served by an ETC is known as a competitive ETC.

<sup>9</sup> *MAG Order*, 16 FCC Rcd at 11247 ¶ 4.

time, so a modified embedded cost mechanism was put in place to determine high-cost universal service support for carriers that fit the definition of “rural” carriers in the Act.<sup>10</sup> Although the modified mechanism was only put in place for five years, and was to expire on June 30, 2006, in May 2006 the FCC extended the interim mechanism indefinitely.<sup>11</sup> At the time that the FCC adopted the modified mechanism for high-cost support to rural carriers, it explicitly noted that there is no statutory requirement to distinguish between “rural” and “non-rural” carriers in determining universal service support.<sup>12</sup> Additionally, the FCC expressly noted that the modified mechanism for rural carriers was an interim solution that was not “a viable long-term solution.”<sup>13</sup>

Meanwhile, the vast majority of federal high-cost support goes to areas served by “rural” carriers under the indefinitely temporary mechanism for distributing high-cost support to those carriers. In 2007, \$1.5 billion in federal high-cost loop and local switching support was provided in areas served by “rural” ILECs.<sup>14</sup> There was \$352 million distributed for “non-rural” high-cost support. This is the case even though it has been estimated that only about one in five rural customers in the nation live in areas served by these “rural” carriers.<sup>15</sup>

And, while the “rural” carriers receive most of the federal high-cost support under their temporary distribution mechanism, the “non-rural” carriers receive their lesser support under a mechanism that has been held invalid twice by the Tenth Circuit. One of

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<sup>10</sup> See *id.* at 11252-59 ¶¶ 14-30.

<sup>11</sup> *In the Matter of Federal-State Joint Board on Universal Service; High-Cost Universal Service Support*, CC Docket No. 96-45; WC Docket No. 05-337, Order, 21 FCC Rcd 5514 (2006) (*Interim Order*).

<sup>12</sup> *MAG Order*, 16 FCC at 11246 n.3, 11310-11 ¶ 171.

<sup>13</sup> *Id.* at ¶ 170.

<sup>14</sup> *2007 Universal Service Monitoring Report*, CC Docket No. 98-202, Table 3.1, “High-Cost Support Fund Payment History”, Dec. 28, 2007 (*2007 Monitoring Report*).

<sup>15</sup> *MAG Order*, 16 FCC Rcd at 11310-11 ¶ 171 (referencing the comments of the Maine and Vermont Commissions).

the guiding universal service principles set out in the 1996 Act is that consumers in rural, insular and high-cost areas should have access to services and rates for those services that are reasonably comparable to the services and rates in urban areas.<sup>16</sup> The Act also requires that universal service support be “explicit and sufficient” to achieve universal service purposes.<sup>17</sup> In 2003, the Tenth Circuit found the FCC’s mechanism for distributing high-cost support to “non-rural” carriers to be invalid because the FCC had failed to explain how the mechanism would achieve the universal service aims of reasonably comparable services and rates and sufficient support and the Court remanded the matter back to the FCC to create a valid mechanism. The FCC modified the mechanism, but in 2005 the Tenth Circuit found that the FCC again had not sufficiently justified how the modified mechanism would ensure sufficient support and reasonably comparable rates and services in high-cost areas served by “non-rural” carriers, and again remanded the matter to the FCC to justify or fix the invalid mechanism. It has now been four years since that remand and the FCC has neither justified nor fixed the invalid mechanism under which it distributes high-cost support to “non-rural” carriers. In January of this year, Qwest and the Maine, Vermont and Wyoming state commissions filed a petition for mandamus relief in the Tenth Circuit, asking the Tenth Circuit to instruct the FCC to promptly issue a decision addressing the invalid mechanism.<sup>18</sup> The petitioners and the FCC have just last week agreed to a timeline under which the FCC would issue final rules on a “non-rural” mechanism by April 2010 and the FCC has

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<sup>16</sup> 47 U.S.C. §§ 254(b)(3) & (5).

<sup>17</sup> 47 U.S.C. § 254(e).

<sup>18</sup> Petition for a Writ of Mandamus to the Federal Communications Commission of Qwest Corporation, Maine Public Utilities Commission, Vermont Public Service Board and Wyoming Public Service Commission, No. 09-9502 (10<sup>th</sup> Cir., filed Jan. 14, 2009).

notified the court of the agreement.<sup>19</sup> In the meantime, “non-rural” carriers continue to receive their high-cost support via an unlawful mechanism.

One basis for the distinct “rural” and “non-rural” support mechanisms was that historically, the larger “non-rural” carriers have subsidized the rates in high-cost areas through implicit subsidies in phone rates paid by their urban and business customers. Smaller “rural” carriers that only served rural areas were not able to implement such implicit subsidies, and thus received more explicit support to serve the same types of high-cost, rural areas that the larger carriers also served. But, today this distinction is disappearing. With increased competition in the telecommunications marketplace, any remaining implicit subsidies between rural and urban wire centers are being quickly eroded, as larger ILECs such as Qwest lose substantial portions of their business and residential market share in more urban markets. Since 2003, ILECs, on average, have lost 18 percent of their access lines.<sup>20</sup> This follows the loss of more than 10 million access lines between 2000 and 2003.<sup>21</sup> These line losses have resulted, in part, from tremendous growth in intermodal competition over the past five years.<sup>22</sup> Residential and business customers throughout the country now have access to a variety of competitive alternatives for affordable telephone services. Such alternatives include cable service providers (providing either circuit switched or facilities-based Voice over Internet

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<sup>19</sup> Response of FCC to Petition for a Writ of Mandamus, No. 09-9502 (10<sup>th</sup> Cir., filed Mar. 6, 2009).

<sup>20</sup> *Local Telephone Competition: Status as of June 30, 2007*, Industry Analysis and Technology Division, Wireline Competition Bureau, March 2008, Table 4 (*2007 Local Telephone Competition Report*).

<sup>21</sup> *Id.*

<sup>22</sup> They also are attributable to the substitution of other services, such as broadband-enabled Internet and e-mail services, for traditional telephone services. While ILECs provide broadband services, cable providers continue to serve the majority of broadband consumers. *High-Speed Services for Internet Access: Status as of June 30, 2007*, Industry Analysis and Technology Division, Wireline Competition Bureau, March 2008, Chart 6.

Protocol (VoIP) services), wireline competitive local exchange carriers (CLECs), wireless carriers, and “over-the-top” VoIP providers.<sup>23</sup>

In Omaha, Cox, rather than Qwest, now provides the majority of telephone connections, and Qwest faces highly competitive market conditions in other urban areas, such as Denver, Minneapolis, Phoenix, and Seattle. Due to the high fixed costs of telephony, such loss of market share does not significantly reduce Qwest’s costs in those markets. In turn, Qwest’s remaining customers in those markets generally do not subsidize phone services in other, higher-cost areas.<sup>24</sup> Thus, the historic rationale for this differential support for carriers serving the same types of rural and high-cost areas has been eviscerated by today’s competitive marketplace. Reform of the high-cost fund must recognize and address this reality. The Joint Board conceptually agrees that “providers of service to rural areas should be treated similarly.”<sup>25</sup> In today’s competitive environment, high-cost support should be based on the area served, and not the size of the carrier providing the service.

Additionally, the methodology for allocating high-cost support to non-rural carriers must be revamped. Qwest agrees with the approach of Chairman Boucher and Congressman Terry’s USF reform bill that high-cost support to “non-rural” carriers

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<sup>23</sup> “Over-the-top” VoIP service can be used over any broadband connection, which is available from a number of sources, including providers of cable modem service, DSL, wireless broadband, and satellite.

<sup>24</sup> Similar line losses in rural areas have tended to increase the per-line cost of providing service in those areas, because the ILEC still must maintain its outside plant throughout its service territory. In one dramatic example, Qwest’s competitor now serves 93 percent of the access lines in Qwest’s exchange in Terry, MT. *In the Matter of Qwest Petition for Forbearance Under 47 U.S.C. § 160(c) from Resale, Unbundling and other Incumbent Local Exchange Requirements Contained in Sections 251 and 271 of the Telecommunications Act of 1996 in the Terry, Montana Exchange*, WC Docket No. 07-9, Memorandum Opinion and Order, 23 FCC Rcd 7257 (2008). Despite these competitive losses, Qwest still shoulders the cost of maintaining the network plant to provide service in such areas, with little associated revenue.

<sup>25</sup> *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337; CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477, 20487 ¶ 40 (2007) (*Recommended Decision*).

should be re-targeted to individual wire centers.<sup>26</sup> The current mechanism allocates high-cost support to “non-rural” carriers in each state based on whether the ILEC’s statewide average costs exceed a national benchmark. Even if a carrier serves several high-cost areas in a state, if its average costs statewide do not exceed the national benchmark, no high-cost support is available for that carrier in that state. As a result, today, many of the nation’s most sparsely populated communities served by “non-rural” ILECs, like Qwest, receive little, if any, federal high-cost support. Even though the Commission is projected to disburse \$337 million in federal “non-rural” support in 2009, that support will only go to carriers in a handful of states.<sup>27</sup> At the local level, Qwest and other “non-rural” ILECs serve thousands of rural wire centers with very high costs -- as calculated by the FCC’s High Cost Model<sup>28</sup> -- yet receive little, if any, explicit federal support for those wire centers. For example, Qwest serves Patagonia, AZ (model monthly cost \$127 per line), Deckers, CO (model monthly cost \$137 per line), Rose Hill, IA (model monthly cost \$162 per line), Comstock, MN (model monthly cost \$221 per line), and Leonard, ND (model monthly cost \$204 per line), but receives no federal high-cost support in any of these areas. Currently, the national average cost developed by the FCC’s cost model is \$21.43, and high-cost support is available where a non-rural carrier’s statewide average cost per line exceeds two standard deviations of this national average, or \$28.13 (the national benchmark). Clearly, all of the costs noted above, well exceed this national benchmark, but because statewide average costs – and not individual wire center costs – are measured against the benchmark, none of these wire centers receives federal high-

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<sup>26</sup> Universal Service Reform Act of 2007, H.R.2054, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. § 3(e)(3)(A).

<sup>27</sup> The states receiving Federal non-rural high-cost support are AL, KY, MS, MT, NE, SD, VT, WV, and WY. Source: USAC report HC-01 for 2<sup>nd</sup> Quarter 2009.

<sup>28</sup> The High Cost Model is the model used to calculate the forward-looking costs of non-rural carriers used to determine high-cost support to those carriers.

cost support. There are hundreds of other examples of Qwest wire centers with costs above the national benchmark where Qwest receives no federal high-cost support.

The current use of statewide average costs to allocate high-cost support assumes that low cost urban areas can subsidize high cost areas. As already discussed, competition today in urban areas does not allow support to flow to high cost areas. In today's competitive market place a different allocation method must be adopted to effectively and efficiently target high-cost support to high-cost areas. It is time to move away from the existing distinctions in distributing high-cost support based on carrier size, and from the invalid mechanism for distributing high-cost support to "non-rural" carriers.

**B. High-cost Support Should Enable Universal Access, Not Subsidize Competition.**

Congress also must ensure that the high-cost universal service program returns to its core purpose of enabling universal access to affordable telecommunications service in high-cost areas. The purpose of high-cost support is to enable telecommunications service in areas where it is not otherwise economic for a carrier to provide the service. Given the many high-cost areas throughout the country that do not receive any high-cost support, it should not be the purpose of the high-cost universal service program to support multiple carriers in an area where it is uneconomic for even one carrier to provide service. Supporting multiple carriers in high-cost areas is simply antithetical to the core purpose of the fund.

Unfortunately, in many areas the current high-cost support program does just that. And, this is not the case of just two or three competitive carriers in a high-cost area receiving universal service support, but ten or more. For example, in Hattiesburg,

Mississippi, a town with a population of 45,000, there are 12 competitive providers, known as CETCs and one ILEC all receiving high-cost support.<sup>29</sup>

The reason for this excessive support is the FCC's identical support rule. The "identical support" rule provides each CETC with the same per-line, high-cost universal service support amounts that the ILEC in whose service area the CETC is providing competing service receives. CETCs serving in rural ILEC high-cost areas receive high-cost support from the rural high-cost mechanism, while CETCs serving in non-rural ILEC high-cost areas receive support from the non-rural mechanism. Although initially well-intentioned as supporting the FCC-created universal service principle of competitive neutrality, the rule's application has resulted in a gross misuse of universal service support. There is clear data that high-cost support to CETCs has been the primary cause of the significant growth in the high-cost support fund in recent years. As the FCC has stated, while high-cost support to ILECs has been flat since 2003, support to CETCs, in the seven years from 2001 through 2007, had grown from under \$17 million to \$1.18 billion – an average annual growth rate of over 100 percent.<sup>30</sup> In 2009, CETCs, of whom the vast majority are wireless carriers, are projected to receive 49% of the non-rural high-cost fund (\$166 million of \$337 million) and 29% of the rural high-cost fund (\$560 million of \$1.93 billion). In total, in 2009 CETCs are projected to receive \$1.4 billion in federal high cost (rural and non-rural) support, interstate access support and interstate

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<sup>29</sup> USAC Second Quarter 2009 Report HC-15.

<sup>30</sup> *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers; RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, WC Docket No. 05-337; CC Docket No. 96-45, Order, 23 FCC Rcd 8834, 8837-38 ¶ 6 (2008) (*Interim CETC Cap Order*), *appeal pending sub nom., Rural Cellular Association, et al. v. FCC*, No. 08-1284 (D.C. Cir., petition for review filed Aug. 29, 2008).

common line support, or nearly one-third of these federal universal service support funds, without any requirement that their costs justify this support.

Thus, to the extent a CETC's costs to provide wireless service are less than the ILEC's costs to provide wireline service; the identical support rule provides an inefficient incentive to the CETC to provide service in the ILEC's service area.<sup>31</sup> This inefficient incentive is even more pronounced in rural ILEC service areas. Because rural carriers receive universal service support based on their embedded costs, when a rural carrier's cost per-line increases -- such as when it loses lines to CETCs -- its high-cost support per-line increases as well. And, pursuant to the FCC's identical support rule, this higher per-line support is available to CETCs in the rural ILEC's service area. But, because the CETC receives this high-cost support irrespective of its own costs to provide service, there is little, if any, incentive for the CETC to invest in or expand its facilities to areas with lower population densities.<sup>32</sup> The Joint Board and the FCC have recognized that high-cost support should no longer be used in this inefficient manner, and the FCC has as an interim measure frozen universal service support to CETC at March 2008 levels.<sup>33</sup>

But this is not enough. In order to return the high-cost fund to its core principle of universal service, the identical support rule must be eliminated. The Joint Board has recommended and the FCC has tentatively concluded that the identical support rule should be eliminated and that going forward any high-cost support to CETCs must be based on their own costs of providing the supported services.<sup>34</sup> Universal service to high-

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<sup>31</sup> And, given the significant increase in wireless carriers designated as ETCs, it seems likely that their costs are less than those of the ILECs in the areas in which the wireless carriers have sought ETC designation.

<sup>32</sup> *In the Matter of 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, 23 FCC Rcd 1467, 1471-72 ¶ 10 (2008).

<sup>33</sup> *Interim CETC Cap Order*, 23 FCC Rcd at 8837 ¶ 5, 8838 ¶ 7, 8839 ¶ 9, 8850 ¶ 38.

<sup>34</sup> *See id.* at 8846-48 ¶¶ 26-31.

cost areas is most efficiently met by supporting only one carrier in a high-cost area. If, however, more than one carrier in an area is to be supported, support for each carrier should be based on its own costs to provide the supported service.

On a side note, high-cost support also should not be available to subsidize free “chat” services and other access stimulation schemes. In the high-cost program there is evidence that at least one ETC is receiving a few million dollars in high-cost support for thousands of lines provided to business partners that are virtually locating their business services in the ETC’s “high-cost” service area.<sup>35</sup> The ETC functions primarily as part of an “access stimulation” scheme designed to artificially pump interstate access traffic through a local exchange carrier (LEC) switch at unreasonably high access rates. The scheme functions by the sharing of the access revenues between the LEC and the provider of the “free” service. Access stimulation constitutes a major threat to the telecommunications infrastructure.<sup>36</sup> The manner in which the thousands of lines for which the ETC is receiving high-cost support are physically set up raises questions as to whether there are any significant local loop costs (or any local loop costs at all) that would justify high-cost support for these lines. And, the ETC does not otherwise serve any residential or business customers in the high-cost area at all.<sup>37</sup> It is not appropriate to use high-cost funds that are intended to provide affordable rates and services reasonably comparable to those of urban areas for consumers located in rural and high-

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<sup>35</sup> See generally Opposition of AT&T Inc., CC Docket No. 96-45, filed Mar. 31, 2008; Opposition of Qwest Communications International Inc. to Adventure’s Petition for Waiver, CC Docket No. 96-45, filed Mar. 31, 2008 (Qwest Mar. 31, 2008 Opposition).

<sup>36</sup> Access stimulation is described in detail in *In the Matter of Qwest Communications Corporation, Complainant, v. Farmers and Merchants Mutual Telephone Company, Defendant.*, File No. EB-07-MD-001, Memorandum Opinion and Order, 22 FCC Rcd 17973 (2007); *on recon.*, 23 FCC Rcd 1615 (2008).

<sup>37</sup> Qwest Mar. 31, 2008 Opposition at 2, 6-7.

cost areas to essentially support an access stimulation scheme. Measures should be put in place to prevent such abuses of universal service support.

**C. There Should Be Universal Service Support For Broadband Deployment To Unserved Areas.**

As Chairman Boucher, Congressman Terry, and many others have already recognized, it is time to aid universal access to broadband services through universal service support. Qwest currently offers broadband services to approximately 86 percent of the households in its region. In order to further expand its broadband footprint, Qwest must undertake costly upgrades to its network. In the absence of additional federal assistance, however, such upgrades are not economically feasible in many rural areas.

The grants for broadband deployment that will be provided by the National Telecommunications and Information Administration and the Rural Utilities Service pursuant to the American Reinvestment and Recovery Act are a start, but no one believes that this money will result in ubiquitous deployment of high speed broadband deployment to currently unserved areas. There remains a crucial role for universal service funding.

Qwest agrees with the Joint Board that the primary purpose of any broadband deployment subsidization should be to aid construction of facilities in *unserved* areas.<sup>38</sup> But, high-cost support should not provide on-going operational subsidies. Nor should the support subsidize competition or build duplicate networks. For the unserved areas, only a single provider of broadband, regardless of the technology used, should receive federal universal service high-cost support.

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<sup>38</sup> *Recommended Decision*, 22 FCC Rcd at 20481-82 ¶¶ 12-15.

Qwest supports using a competitive bidding mechanism that would award broadband deployment support to one winner – the lowest qualified bidder. To maintain the competitive neutrality of the program, any provider that meets certain pre-established service quality and pricing standards should be permitted to bid.

Consistent with these statements, Qwest has previously proposed a new federal universal service program that would provide one-time grants to selected applicants to deploy broadband to unserved areas.<sup>39</sup> Qwest commends that proposal to this Subcommittee for its consideration in crafting a successful, efficient, and cost-effective universal service support program for broadband deployment to unserved areas.

Further, critical to any proposal to spur broadband deployment is consideration of the proposal's likely effectiveness in accomplishing the goal of "ensuring that broadband is available to all Americans,"<sup>40</sup> and means of measuring that effectiveness. To design an effective universal service program for enabling broadband deployment to unserved areas, Congress should not only create the support mechanism, but also set clear, realistic goals and performance measures for the program, and ensure well-targeted, sufficient support for the areas that need broadband deployment. Critical to this effort is tying broadband support directly to the costs to deploy broadband to unserved areas.

Now is the time to use both the positive and negative lessons of the current universal service support mechanisms to create a new support mechanism for broadband deployment to unserved areas that implements the successes but does not replicate or

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<sup>39</sup> See *ex parte* Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Ms. Melissa Newman, Qwest, dated July 9, 2007, CC Docket No. 96-45 and its attached "Qwest's Proposal For Broadband Deployment To Unserved Areas."

<sup>40</sup> *In the Matter of High-Cost Universal Service Support, etc.*, WC Docket No. 05-337, *et al.*, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, FCC 08-262, at App. A ¶ 4 (rel. Nov. 5, 2008), *appeals pending sub nom.*, *Core Communications, Inc. v. FCC*, Nos. 08-1365, *et al.* (D.C. Cir. filed Nov. 21, 2008).

perpetuate the problems of those mechanisms. By instituting a new USF strategy to spur broadband to unserved areas, Congress can recognize that broadband—the fundamental technology of the twenty first century economy—must be supported in a rational and cost effective fashion.

### **III. CONCLUSION.**

Congress has an important opportunity here to adopt the successes and correct the mistakes of the current universal service high-cost program and structure an improved program for supporting universal access to basic telephone service and a new program for supporting universal access to broadband service. As an incumbent local telephone provider in fourteen states and a broadband provider, Qwest applauds this Subcommittee's attention to these universal service issues.

Again, thank you for the opportunity to testify today on these important issues. I look forward to your questions.