Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	WC Docket No. 05-337
Universal Service Seeking Comment	)	
on the Merits of Using Auctions to	)	
Determine High-Cost Universal	)	CC Docket No. 96-45
Service Support	)	
	)	

To: The Federal-State Joint Board on Universal Service

REPLY COMMENTS OF

CTIA – THE WIRELESS ASSOCIATION®

CTIA – The Wireless Association®[1] ("CTIA") submits the following reply comments in the above-captioned proceeding to further explain its support for the concept of using competitively-neutral reverse auctions to determine high-cost universal service support for both incumbent and competitive eligible telecommunications carriers ("ETCs"). CTIA urges the Joint Board to ensure that any reverse auction is designed in a way that does not undermine consumer choice by discriminating against mobile wireless carriers. To further contribute to the record in this proceeding, CTIA also attaches an economic paper prepared by Cost Quest on the use of reverse auctions to determine high-cost universal service support in the United States.

[1] CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

I. THERE IS BROAD SUPPORT FOR COMPETITIVELY-NEUTRAL REVERSE AUCTIONS AS A MEANS OF DETERMINING HIGH-COST UNIVERSAL SERVICE SUPPORT

CTIA agrees with the broad group of commenters who support competitively-neutral reverse auctions as an economically efficient and effective way to achieve universal service objectives.[2] If implemented in a competitively- and technology-neutral manner, reverse auctions hold the potential to drive down the cost of universal service while providing incentives for investment in new and emerging technologies in high-cost areas.

Support for reverse auctions from such a broad cross-section of the telecommunications community demonstrates the extent to which the current system of high-cost universal service mechanisms has fallen out of sync with the competitive marketplace. As long as all competitors are placed on an even playing field, reverse auctions can serve as an effective way to bring the concept of universal service in line with the efficiencies demanded by a competitive marketplace.

At the same time that the Joint Board considers the reverse auctions concept, other incremental reforms to the high-cost universal service mechanisms that will encourage and reward efficiency, better target support to high-cost areas, and simplify administration, should be considered.[3] CTIA, for example, has proposed that incumbent LEC profit guarantees be eliminated from the high-cost universal service support mechanisms. CTIA also has proposed requiring incumbent LECs to combine study areas in a given state and transitioning larger incumbent LECs with over 50,000 access lines in a state to the forward-looking economic

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[2] *See* Comments of Alltel, WC Docket No. 05-337 (filed Oct. 12, 2006); Comments of New Jersey Board of Public Utilities, WC Docket No. 05-337 (file Oct. 10, 2006); Comments of Western Telecommunications Alliance, WC Docket No. 05-337 (filed Oct. 10, 2006); Comments of Dobson Cellular Systems, WC Docket No. 05-337 (filed Oct. 10, 2006); Comments of National Cable & Telecommunications Association, SC Docket No. 05-337 (filed Oct. 10, 2006).

[3] *See* Comments of CTIA – The Wireless Association, CC Docket No. 96-45 (filed Oct. 15, 2004).

cost-based mechanism. Moreover, CTIA has supported freezing per-line support upon competitive entry in a particular incumbent LEC service area. To ensure that qualified competitors can receive support in a timely manner and use universal service support to deliver services to the hardest to reach areas, CTIA also has proposed a six-month deadline for consideration of ETC petitions and requiring all incumbent LECs to disaggregate support upon competitive entry.

II. REVERSE AUCTIONS SHOULD BE DESIGNED TO FOSTER CONSUMER CHOICE IN HIGH-COST, RURAL AREAS

To further contribute to the record, CTIA has commissioned a paper by Cost Quest on the use of reverse auctions for calculating high-cost universal service support.[4] The Cost Quest paper shows that reverse auctions have been a successful model for determining high-cost universal service support in other countries and holds significant potential for use in the United States. To work effectively, Cost Quest argues that reverse auctions would need to accommodate current and potential intermodal competition in the United States. As discussed in the attached paper and below, a well designed reverse auction should: (1) Include all incumbent and competitive ETCs, without regard to regulatory status or technology; (2) Reject a "winner takes all" model, which would undermine competition, instead using other mechanisms to reward active bidding; (3) Let consumer preferences determine supported services; and (4) Provide clear eligibility criteria and hold auction winners accountable for achieving measurable universal service objectives.

[4] *See* Appendix A.

A. Competitive and Technological Neutrality Are Essential to Ensure That the Twin Goals of Universal Service and Facilities-Based Competition Are Achieved

Almost a decade ago, the Commission adopted the principle of "competitive neutrality"[5] and determined that high-cost universal service support should be available to the ETC of a consumer's choosing so as to avoid "the unintended consequence of discouraging investment in rural infrastructure."[6] As Dobson Cellular Systems describes in its comments, that monumental decision has brought tremendous benefits to consumers located in high-cost rural areas.[7] The high-cost universal service mechanisms have played a critical role in ensuring that consumers in high-cost, rural areas have access to the same type and variety of high-quality, affordable services that are available to consumers in lower-cost urban areas. In its comments, Verizon provides detailed analysis on the extent of intermodal facilities-based competition in the telecommunications and information services marketplace, and how that competition has benefited consumers.[8] Since the time of our comment filing, consumer research firm Telephia has released a study on the growing number of Americans who have chosen to "cut the cord" and replace traditional landline service with wireless service for their calling needs.[9]

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[5] *See Federal-State Joint Board on Universal Service; High-Cost Universal Service Support,* CC Docket No. 96-45, WC Docket No. 05-337, Notice of Proposed Rulemaking, 20 FCC Rcd 19731, 19733 (2005).

[6] *See RTF Order*, 16 FCC Rcd. at 11,296.

[7] Comments of Dobson Cellular Systems, WC Docket No. 05-337 (filed Oct. 10, 2006).

[8] Comments of Verizon and Verizon Wireless, at 3-10, WC Docket No 05-337 (filed Oct. 10, 2006).

[9] "Midwesterners Cut the Cord: Households in Detroit and Minneapolis-St. Paul Have the Highest Rate of Wireless Substitution Among 20 Largest U.S. Cities", Telephia, Inc., *available at* http://telephia.com/html/documents/TotalCommunications.pdf (last accessed Oct. 24, 2006) (Telephia surveyed the 20 largest metropolitan areas in the country and found that over 10% of households had completely substituted wireless for wireline voice service. Households in Detroit, MI and Minneapolis-St. Paul, MN lead the country's largest markets with 19% and 15.2%, respectively).

The Commission's competitive neutrality principle has been supported by the Courts. In *Alenco Communications, Inc. v. FCC*, the United States Court of Appeals for the Fifth Circuit stated that the universal service "program must treat all market participants equally – for example, subsidies must be portable – so that the market, and not local or federal regulators, determines who shall compete for and deliver services to customers."[10] As the Fifth Circuit noted, the principle of competitive neutrality "is made necessary not only by the realities of competitive markets but also by statute."[11] It also is noteworthy that telecommunications legislation currently under consideration in the U.S. Senate would add a competitive neutrality principle to section 254(b) of the Act.[12]

In direct contradiction to the Act, certain commenters support proposals that would reverse the obvious consumer benefits of competitively-neutral high-cost universal service support. The Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO") and other commenters continue to deflect efforts to reform the high-cost support mechanisms by focusing attention on growth of support to competitive (often wireless) ETCs and suggest alternative measures to curtail competitive ETC support.[13] As CTIA noted in its comments, the fact remains that incumbent LECs have received about 95% of high-cost universal service support to date and continue to receive the lion's share of high-cost

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[10] 201 F.3d 608, 616 (5th Cir. 2000).

[11] *Id.*

[12] Communications Opportunity, Promotion, and Enhancement Act of 2006, at § 253, H.R. 5252, *available at* http://commerce.senate.gov/public/_files/HR5252RSa.pdf.

[13] *See e.g.* Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies, WC Docket No. 05-337 (filed Oct. 10, 2006).

support (about 80%), even though wireline carriers continue to lose customers and there are now considerably more mobile wireless subscriber than wireline switched access lines.[14]

Despite CenturyTel's claim, wireless carriers make significant contributions to the fund (about $2.5 billion annually), far more than they receive through the high-cost support mechanisms.[15] Further, every dollar of high-cost universal service support received by a wireless carrier reflects an affirmative choice by a consumer to purchase mobile wireless services. As discussed above and in CTIA's comments, for an increasing share of consumers, mobile wireless services are viewed either in whole or in part as a substitute for fixed wireline services.[16]

OPASTCO and the National Telecommunications Cooperative Association ("NTCA") both suggest in their comments that wireless ETCs should be relegated to a separate support mechanism, while retaining mechanisms solely for wireline carriers that continue to reward their inefficiencies.[17] Such differential treatment does not reflect the extent to which wireline and wireless services now compete for consumer minutes and connectivity, and therefore will distort the competitive marketplace. Because most facilities-based competition in rural, high-cost areas is coming from wireless carriers, and in light of Cost Quest's observation that competition is a necessary pre-requisite for a successful auction, separate wireline and wireless auctions would, as a practical matter, translate to higher support for wireline incumbents and less support for their wireless competitors. As the Commission previously has concluded, "Unequal federal funding

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[14] *See* CTIA Comments at iii.

[15] Comments of CenturyTel, Inc., at 11, WC Docket No. 05-337 (filed Oct. 10, 2006).

[16] *See supra* at 4, CTIA Comments at 13.

[17] Comments of OPASTCO, WC Docket No. 05-337 (filed Oct. 10, 2006); Comments of the National Telephone Cooperative Association, WC Docket No. 05-337 (filed Oct. 10, 2006); Comments of CenturyTel, Inc., WC Docket No. 05-337 (filed Oct. 10, 2006).

could discourage competitive entry in high-cost areas and stifle a competitor's ability to provide service at rates competitive to those of the incumbent."[18] As discussed below, in the case of reverse auctions, the key will be ensuring that all ETCs, regardless of technology, have equal funding *opportunities*.

B. "Winner Takes All" Auctions Are Inconsistent With the Goals of the Universal Service Fund

As Cost Quest explains, the design of a reverse auction for universal service support must delicately balance the goals of providing incentives for low bids with fostering competition. "Winner takes all" auctions, although well-suited for spectrum auctions, don't achieve the goals sought by a universal service auction. Although they provide incentives to bid, since losing bidders receive nothing, winner-takes-all auctions run the risk of eliminating the consumer benefits of a competitive market. A winner-takes-all auction will discourage competitive entry during the period of the auction winner's exclusivity. By contrast, "everybody wins" auctions, in which all participants are eligible to receive support for their customers at the level of the lowest bidder, create disincentives for low bids and provide incentives for bidder collusion.

As described in CTIA's comments and in Cost Quest's paper, a "winner-gets-more" reverse auction structure rewards the lowest bidder with the bid upon level of support, while still providing some lesser level of support for auction participants who fail to submit the lowest bid. A "winner-gets-more" reverse auction therefore can balance the need to drive down the cost of universal service and minimizing competitive distortions.

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[18] *Federal-State Joint Board on Universal Service*, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432, 20480 (1999).

C. Consumers, Not Regulators, Should Decide What Services Will be Supported by Universal Service

CTIA agrees with Alltel that any reform should promote "rural customers' access to high-quality, efficiently delivered, telecommunications services."[19] By providing more consumer choice, the high-cost support mechanism can provide better access to the types of service consumers want and need.

The reality of the telecommunications marketplace is that inter-modal competition works. Consumers, given the choice between differing services, will choose the service that most adequately meets their needs. "Cut the cord" rural consumers may value the freedom that mobility provides above other service characteristics.[20] Other rural consumers may opt for both mobile wireless and fixed wireline services just like 200 hundred million other Americans. Any auction system that requires mobile wireless carriers to replicate the existing set of wireline services or characteristics not only ignores the technological differences between competing sectors, but second-guesses consumer preferences.

Any auction system for universal service support should recognize the success of the market and allow market participants to choose their carrier based on service offerings. CTIA therefore supports Alltel's suggestion that ETCs should be permitted to "offer varied service packages and offerings above and beyond the basic minimum (*e.g.*, high-speed data, mobility, long-distance plus local rate plans, etc.)."[21]

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[19] Comments of Alltel at 3, WC Docket No. 05-337 (filed Oct. 10, 2006).

[20] According to one recent survey, 13% of rural youth report they intend to "cut the cord". *See* National Telecommunications Cooperative Association and the Foundation for Rural Service, *Annual Rural Youth Survey on Telecom Usage*, *available at* http://www.ntca.org/ka/ka-3.cfm?content_item_id=4571&folder_id=644 (last visited Nov. 8, 2006).

[21] *See id*.

D. Auction Rules Should Ensure Transparency in the Process and Accountability of Winning Bidders

For reverse auctions to provide maximum utility, both to universal service support winners and to consumers, any reverse auction system should have a well-defined set of bidding criteria and processes. As CTIA advocated in its earlier comments in this docket, a clearly defined and streamlined process for designating ETCs as eligible bidders will both encourage bidding and lower administrative barriers to competition for universal service dollars.[22] A clearly defined set of eligibility criteria, such as carrier of last resort obligations, ensures that bidders in reverse auctions are adequately prepared to further the goals of universal service. Moreover, both incumbent and competitive ETCs must be held accountable for achieving measurable universal service benchmarks – such as buildout requirements.

E. Auction Design Should Choose Small Geographic Areas Ideally Divorced From Wireline and Wireless Networks

CTIA agrees with those commenters who have suggested that existing ILEC study areas and wireless licensed service areas are not appropriate geographic divisions to use in a reverse auction system. Rural Cellular Association accurately states that "for any auction scheme to be competitively neutral, service areas must be defined for all carriers."[23] Existing ILEC study and wireless licensed service areas are too large to effectively promote competition. CTIA supports the use of small geographic areas, such as counties, for all providers to bid on universal service support.

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[22] *See* Comments of CTIA – The Wireless Association, WC Docket No. 05-337 (filed Oct. 10, 2006).

[23] Comments of Rural Cellular Association, WC Docket No. 05-337 (filed Oct. 10, 2006).

III. CONCLUSION

CTIA reiterates its support for competitively neutral reverse auctions to determine high-cost universal service support amounts for both incumbent and competitive eligible telecommunications carriers. If implemented in a technologically- and competitively-neutral manner and coupled with other reforms CTIA supports, reverse auctions can serve as a market-oriented means to reduce the size of the universal service fund while advancing the important goals of universal service.

Respectfully Submitted,

CTIA – The Wireless Association®

By: /s/ *Paul Garnett*

Paul W. Garnett
Assistant Vice President, Regulatory Affairs

Michael F. Altschul
Senior Vice President & General Counsel

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

CTIA – The Wireless Association®
1400 16th St. NW, Suite 600
Washington, D.C. 20036
(202) 785-0081

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