

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC**

<b>In the Matter of</b>	)	
	)	
<b>Connect America Fund</b>	)	<b>WC Docket No. 10-90</b>
	)	
<b>A National Broadband Plan for Our Future</b>	)	<b>GN Docket No. 09-51</b>
	)	
<b>High-Cost Universal Service Support</b>	)	<b>WC Docket No. 05-337</b>

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**COMMENTS OF THE FIBER-TO-THE-HOME COUNCIL  
NOTICE OF INQUIRY AND NOTICE OF PROPOSED RULEMAKING**

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The Fiber-to-the-Home Council (“FTTH Council” or “Council”) hereby respectfully submits its reply comments to the Federal Communications Commission (“Commission”) in response to Notice of Inquiry (“*NOI*”) and Notice of Proposed Rulemaking (“*NPRM*”) issued in the above-captioned proceedings.<sup>1</sup> So that the Commission understands the perspective of the FTTH Council in these comments, it is important first to provide background on the Council and its membership.

The Council’s mission is to educate the public and government officials about fiber-to-the-home and to promote and accelerate FTTH deployment and the resulting quality of life enhancements FTTH networks make possible. The FTTH Council’s members represent all areas

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<sup>1</sup> *In the Matter of Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, and *High-Cost Universal Service Support*, WC Docket No. 05-337, Rel. Apr. 21, 2010.

of the broadband access industry, including telecommunications, computing, networking, system integration, engineering, and content-provider companies, as well as traditional service providers, utilities, and municipalities. As of today, the FTTH Council has more than 200 entities as members.<sup>2</sup>

Of the Council's members, approximately half are smaller private and public sector providers using FTTH infrastructure (at least in part) to offer voice, high-capacity broadband Internet access, and often video services. Many of the private sector service providers are in less dense areas of the country and hence currently draw support from the High-Cost component of the Universal Service Fund ("USF"). In almost all these instances, this support accounts for a significant portion of these service providers' monthly revenues. Consequently, their lenders consider High-Cost support critical when determining whether to issue loans to them for the construction of facilities. Most recently, with the proposed implementation of the Commission's National Broadband Plan's ("*NBP*") recommendations to reform USF by ending the High-Cost fund and instituting the new Connect America Fund ("CAF"),<sup>3</sup> lenders have become more concerned about issuing loans to service providers relying on High-Cost support. In some cases, these lenders are deferring decisions on new financing until the Commission concludes its USF reform proceeding and determines whether High-Cost support will continue. This poses an obvious problem for these service providers – and for the Commission in light of the *NBP*'s ambitious "100-Squared" broadband goal.

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<sup>2</sup> A complete list of FTTH Council members can be found on the organization's website: <http://www.ftthcouncil.org>.

<sup>3</sup> Federal Communications Commission, *Connecting America: The National Broadband Plan*, (rel. Mar. 16, 2010) at *Availability*, Chapter 8.

The FTTH Council supports the *NBP*'s objective in seeking to establish the CAF to bring broadband to unserved areas, although it has concerns with specifics of the proposal. Deploying broadband to the approximately 7 million housing units without access to adequate broadband service is a worthy objective. The Council, however, urges the Commission to eschew its proposed reduction and eventual elimination of the High-Cost fund. While reforms of the High-Cost fund are warranted to increase efficiency, elimination of, or even a severe reduction in, the fund runs counter to the public interest and the objectives of the *NBP*. Rather, the Commission should seek to combine the two approaches, enabling users in unserved areas to finally be able to access broadband and users in high-cost areas to have access to the same higher-performance broadband services offered in urban areas. The FTTH Council believes the Commission can find sufficient funding for both initiatives by: (1) as proposed in the *NPRM*,<sup>4</sup> making funding for competitive providers more efficient and providing it only where no other provider is offering service; and, (2) working with larger service providers who draw from the High-Cost fund to obtain their commitment to use this funding to expand broadband service to currently unserved areas.<sup>5</sup>

More specifically, the FTTH Council makes the following points:

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<sup>4</sup> *NOI/NPRM* at ¶¶ 59-60.

<sup>5</sup> The Commission considered a broadband directive for service providers drawing from High-Cost fund most recently in November, 2008. *See, In the Matter of: High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link Up*, WC Docket No. 03-109, *Universal Service Contribution Methodology*, WC Docket No. 06-122, *Numbering Resource Optimization*, CC Docket No. 99-200, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, *IP-Enabled Services*, WC Docket No. 04-36, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, (rel. Nov. 5, 2008), Appendix A.

1. **The objective of the Connect America Fund to bring broadband to unserved areas is important but insufficient to achieve the goals of the National Broadband Plan; the Commission should couple this objective with continuing support for broadband in high-cost areas.**

The *NBP* and the *NOI/NPRM* seek to alter the current high-cost rationale underlying the USF and establish a new paradigm: “maximize broadband availability.”<sup>6</sup> This is based on the conclusion that the current fund is “not designed to universalize broadband”<sup>7</sup> and does “not provide support in an economically efficient manner.”<sup>8</sup> Yet, the Commission in the *NBP* acknowledges that High-Cost funding has been used to “deploy broadband-capable infrastructure to serve most of their customers.”<sup>9</sup> Estimates of the capital spent by smaller, more rural local exchange carriers (“LECs”) to upgrade their infrastructure is approximately \$2 billion annually.<sup>10</sup> The *NBP* also acknowledges that areas where the High-Cost fund has been used to enhance broadband deployment may continue to need support, although the *NBP* “does not estimate the amount of support that may be necessary to sustain broadband service in those areas where it is already available.”<sup>11</sup> Unfortunately, the *NBP*’s discussion goes no further. The failure to delve more deeply into the benefits of the current High-Cost support mechanism and the requirements of users in areas receiving funding is a major shortcoming in the otherwise well-documented *NBP*.

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<sup>6</sup> *NBP* at 143.

<sup>7</sup> *Id.* at 141.

<sup>8</sup> *NOI/NPRM* at ¶ 3.

<sup>9</sup> *NBP* at 141.

<sup>10</sup> See, e.g. Comments of the National Exchange Carrier Association, Inc. on NBP Public Notice #19, *In the Matter of The Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*, GN Dockets Nos. 09-47, 09-51, 09-137 (Dec. 7, 2009) at 5. (“*NECA Filing*”)

<sup>11</sup> *NBP* at 151.

The FTTH Council agrees that the current High-Cost fund has not provided sufficient incentive for some carriers, particularly the larger price-cap carriers, to deploy broadband in unserved areas. That is why a CAF – or some other mechanism that would result in these carriers deploying broadband in unserved areas – is needed. But, the value of the High-Cost fund to enable the construction of broadband-capable networks – networks that otherwise would not have been built – and the maintenance of these networks is substantial. Moreover, these broadband-capable networks have performance characteristics that far exceed those proposed by the *NBP* as a basis for funding providers that would be supported by the CAF. Thus, instead of seeking to shift the USF to a completely new paradigm, the Commission should seek to preserve and build-upon the successes of the High-Cost fund and meld the aim of this fund with the CAF's new objective to reach unserved areas.

**2. The shift to the Connect America Fund threatens to strand many millions of broadband users of networks supported by the High-Cost fund.**

The rural LECs in the Traffic Sensitive Pool (serving approximately 4.76 million access lines) offer broadband services to 92% of the premises in their areas, of which almost 200,000 of these premises are served by more advanced all (or partial) fiber networks.<sup>12</sup> At the very least then, approximately 4 million premises with broadband service have the potential to be stranded by the elimination of, or material reduction in, the High-Cost fund. In addition, we estimate that other LECs accessing High-Cost support and providing broadband services serve approximately

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<sup>12</sup> *NECA Filing at Appendix A (NECA, Trends 2009, p. 18).*

an additional 4-6 million premises.<sup>13</sup> That means, a total of 8-10 million premises with broadband service may be stranded with the end of the High-Cost fund.

Yet, as discussed above, neither the *NBP* nor the *NOI/NPRM* examine the impact of withdrawing High-Cost support. Rather, the *NBP* merely states that “the amount of support ultimately required for those areas that are currently served through the receipt of universal service subsidies will depend on many factors” and that “the fact that many questions remain to be answered should not stop the nation from starting down the road to universal broadband.”<sup>14</sup> Such a conclusion, however, assumes that just beginning on this road will not affect the users who access broadband lines that are supported by the High-Cost fund. Already, because of the CAF proposal, the FTTH Council’s service provider members are seeing access to capital being restricted, which negatively effects their plans to enhance and extend broadband service. Other service providers in high-cost areas are curtailing their deployments of new infrastructure fearing an inability to recoup their investments based on the *NBP*’s Recommendation 8.13,<sup>15</sup> which states that the High-Cost fund will be eliminated and replaced by the CAF, which has a very different objective and mechanism for establishing what areas get support and what providers will be able to access support.

In this proceeding, the Commission has the opportunity to step back from the *NBP*’s USF reform recommendations, address the harms that would flow from them, and develop a more

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<sup>13</sup> See, *Federal Universal Service Support Mechanisms Fund Size Projections for Third Quarter 2010*, Universal Service Administrative Company, (Apr. 30, 2010), Appendix HC05; Comments of Windstream, Inc., *In the Matter of A National Broadband Plan For Our Future*, GN No. 09-51, June 8, 2010 at 2 (discussing broadband availability and performance).

<sup>14</sup> *NBP* at 151.

<sup>15</sup> *NBP* at 150.

balanced USF reform proposal – one that recognizes the value of the current High-Cost fund to ensure broadband access to millions of users and seeks to build upon it.

**3. The High-Cost Fund Provides Valuable Leverage for Broadband Deployment.**

The CAF appears to be primarily focused on making “dollar-for-dollar” grants for capital expenditures to construct broadband facilities in unserved areas. In other words, because deployments in these unserved areas are unlikely to provide a sufficient return to attract investment, the CAF is not leveraging its funds. This is understandable given the objectives of the CAF, but it is a very expensive endeavor. In contrast, the High-Cost fund provides a substantial amount of leverage when it provides support to carriers. Recipients do not receive funds for capital expenditures but rather support for operating expenses. They then go to lenders – either private or public, such as the Rural Utilities Service – and use this support as the collateral for a loan for capital investment. This approach enhances the value of the support while minimizing the government’s cost. As indicated earlier, rural LECs receiving High-Cost support spend between \$1 to \$2 billion annually investing in new, broadband-capable infrastructure.

**4. The High-Cost Fund Enables the Construction of Higher-Performance Broadband Networks.**

The FTTH Council understands the high costs involved in deploying broadband plant in the least dense areas of the country. During development of the *NBP*, it submitted detailed

economic evidence of the costs to deploy fiber infrastructure in these areas.<sup>16</sup> Thus, while the Council believes the CAF performance targets of 4 Megabits per second (“Mbps”) downstream and 1 Mbps upstream are insufficient to meet user needs, it understands these targets have been adopted to control the costs of USF. But, as discussed earlier, it is estimated that there are approximately 8-10 million premises receiving High-Cost support and providing broadband service that do not receive proper attention under the NBP.<sup>17</sup> These premises can be addressed with FTTH networks through High-Cost support and capital funding in the form of loans from the RUS or private sector lenders. Thus, by enabling these wireline service providers to continue accessing the High-Cost fund, the Commission will ensure that many more users will have access to higher-performing broadband services.

## **Conclusion**

The FTTH Council supports the “availability” objective in the *NBP* and the goal of the proposed CAF to reach unserved areas. At the same time, it is essential that the Commission respond to the needs of users in less dense areas who are already receiving broadband service. As we have seen over the past decade, the world of broadband is highly dynamic, and users continue to demand greater performance as applications evolve and content becomes more accessible. The Commission should not strand users in high-cost areas, and it is insufficient to

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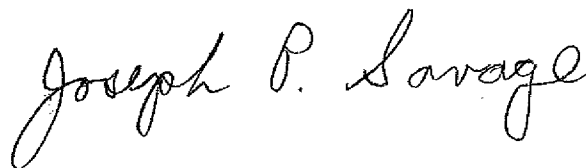
<sup>16</sup> See, FTTH Council Ex Parte, *In the Matter of a National Broadband Plan for Our Future*, GN Docket No. 09-51 (Oct. 14, 2009); Corning Ex Parte, FTTH Deployment Assessment at 8, *In the Matter of a National Broadband Plan for Our Future*, GN Docket No. 09-51 (Oct. 15, 2009).

<sup>17</sup> The potential number of premises omitted from consideration in the *NBP* may actually be greater. The NBP gives special attention to the 7 million housing units covered under the CAF. In addition, the plan expects that 100 million housing units will be covered in the 100 Mbps goal. That leaves 23 million housing units in the United States, most of which are in high-cost areas, to be addressed. However, as indicated in these comments, the

... *Continued*

promise to address their needs “some other day.” As discussed in these comments, that position immediately limits capital availability for broadband development in these areas. In the USF reform proceedings, the Commission has an opportunity to address this concern. The FTTH Council urges the Commission to work towards a more balanced USF reform approach, and it promises to assist it in that task.

Respectfully submitted,



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*NBP* does not examine how to ensure broadband service in these areas continues to be comparable to that found in urban areas.

# Your submission has been accepted

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## Proceedings

Name	Subject
10-90	In the Matter of Connect America Fund A National Broadband Plan for Our Future High-Cost Universal Service Support. .
09-51	In the matter of a National Broadband Plan for Our Future.
05-337	In the Matter of Federal -State Joint Board on Universal Service High-Cost Universal Service Support. . . .

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