Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Inquiry Concerning the Deployment of	)	GN Docket No. 11-121
Advanced Telecommunications Capability to	)	
All Americans in a Reasonable and Timely	)	
Fashion, and Possible Steps To Accelerate	)	
Such Deployment Pursuant to Section 706 of	)	
the Telecommunications Act of 1996, as	)	
Amended by the Broadband Data	)	
Improvement Act	)	

COMMENTS OF THE ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES, THE NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION, AND THE WESTERN TELECOMMUNICATIONS ALLIANCE

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September 6, 2011

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SUMMARY

To sustain broadband deployment and promote broadband adoption, the Commission should adopt, as filed, the RLEC Plan for USF and ICC reform, as amended by the "Consensus Framework" agreed to by the Rural Associations and price cap ILECs. The amended RLEC Plan is designed to be consistent with the Commission's USF and ICC reform principles *without* compromising the availability and affordability of both quality voice and broadband services for customers throughout RLEC service areas. The amended RLEC Plan also avoids "flash cuts" that would cause rural consumers and businesses to experience service disruptions, declines in service quality, or drastic changes in rates for services. Furthermore, the amended RLEC Plan is designed to be implemented quickly, and is assured of being administratively workable for the long term.

The Commission should immediately expand the base of contributors to the USF to include, at a minimum, all broadband Internet access providers. It is increasingly problematic to retain the USF contribution methodology's exclusive reliance on a dwindling base of interstate and international telecommunications service revenues. By basing universal service support on an expanding, rather than a shrinking, contribution base, the Commission would have the necessary resources to ensure the ongoing availability of affordable, robust broadband services to all Americans in a reasonable and timely fashion.

The Commission should also take immediate action to reform its rules regarding access to video programming, notably those involving retransmission consent, so that RLECs can gain access to video content at affordable rates and on reasonable terms and

conditions. The bundling of video services with broadband increases the relevancy of broadband for many consumers, resulting in significant increases in broadband adoption. Therefore, program access reform is a key step to the acceleration of broadband adoption, which in turn spurs further broadband deployment.

The Commission should recognize that the limits of mobile broadband networks prevent them from serving as viable substitutes for scalable, fixed broadband networks. As a result, mobile wireless broadband providers should qualify for universal service support under a complementary mobility fund, but not the Connect America Fund used to support broadband providers of last resort in RLEC service areas. Finally, the Commission should also recognize that the availability of broadband connections to "community anchor institutions" in rural areas, while important, should not be considered a reasonable substitute for robust connections to rural residences and businesses.

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In the Matter of	)	
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Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act	)	GN Docket No. 11-121

COMMENTS OF THE ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES, THE NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION, AND THE WESTERN TELECOMMUNICATIONS ALLIANCE

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO),[1] the National Telecommunications Cooperative Association (NTCA),[2] and the Western Telecommunications Alliance (WTA)[3] (collectively, "the Associations") hereby submit these comments in response to the Notice of Inquiry (NOI) in the above-captioned proceeding.[4]

[1] OPASTCO is a national trade association representing approximately 460 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

[2] NTCA is a national association of more than 560 full-service rural telecommunications providers. All of NTCA's members are Rural Telephone Companies as that term is defined by the Communications Act of 1934, as amended.

[3] WTA is a trade association that represents approximately 250 rural telephone companies operating throughout the 24 states west of the Mississippi River. Most members serve fewer than 3,000 access lines overall, and fewer than 500 access lines per exchange.

[4] *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN

To sustain broadband deployment and promote broadband adoption, the Commission should: (a) adopt the Rural Associations' Rural Rate-of-Return Incumbent Local Exchange Carrier (RLEC) Plan for Universal Service Fund (USF) and intercarrier compensation (ICC) reform,[5] as amended by the "Consensus Framework" filed on July 29, 2011,[6] (b) expand the base of USF contributors to include, at a minimum, all facilities-based broadband Internet access providers, and (c) remove barriers to RLECs' access to video content. Further, the Commission should recognize that mobile broadband services are not viable substitutes for robust fixed broadband services. Finally, the Commission should recognize that the availability of high-speed broadband to anchor institutions is important, but is not by itself sufficient to find that broadband is being deployed to all Americans in a reasonable and timely fashion.

II. IN ORDER TO ACCELERATE BROADBAND DEPLOYMENT, THE COMMISSION SHOULD: (A) ADOPT THE RLEC PLAN FOR USF AND ICC REFORM AS AMENDED BY THE CONSENSUS FRAMEWORK, (B) EXPAND THE BASE OF USF CONTRIBUTORS, AND (C) REMOVE BARRIERS TO RLECS' ACCESS TO VIDEO CONTENT

The NOI seeks comment on key barriers to infrastructure investment that the Commission has identified, notably costs and delays in building out networks, and the lack of relevance of broadband for some consumers.[7] The NOI further asks what actions

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Docket No. 11-121, Eighth Broadband Deployment Notice of Inquiry, FCC 11-124 (rel. Aug. 5, 2011) (NOI).

[5] *See* Comments of the National Exchange Carrier Association (NECA), NTCA, OPASTCO, and WTA, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92 (filed April 18, 2011) (Rural Associations' April 18 Comments).

[6] *See* Letter from Walter B. McCormick, Jr., United States Telecom Association, Robert W. Quinn, Jr., AT&T, Melissa Newman, CenturyLink, Michael T. Skrivan, FairPoint, Kathleen Q. Abernathy, Frontier, Kathleen Grillo, Verizon, Michael D. Rhoda, Windstream, Shirley Bloomfield, NTCA, John Rose, OPASTCO, and Kelly Worthington, WTA, to Chairman Julius Genachowski, Commissioner Michael J. Copps, Commissioner Robert M. McDowell, Commissioner Mignon Clyburn, FCC, WC Docket No. 10-90 *et. al.* (filed July 29, 2011) (Joint Letter).

[7] NOI, ¶29.

the Commission can and should take to accelerate broadband deployment and adoption.[8] The Commission can enhance RLECs' ability to invest in broadband-capable networks by adopting the RLEC Plan for USF and ICC reform, as modified by the Consensus Framework agreed to with price cap ILECs, and by expanding the base of USF contributors to include, at a minimum, all broadband Internet access providers. The Commission can also enhance the relevancy of broadband to more consumers by reducing barriers to RLECs' access to video content. Each of these recommendations is discussed in greater detail below.

A. The Commission should adopt, as filed, the RLEC Plan for USF and ICC reform, as amended by the Consensus Framework

The NOI recognizes that high costs impede investment in broadband infrastructure,[9] and this is especially true in the sparsely populated, high-cost areas served by RLECs. Exacerbating the challenges of high costs are longstanding problems that RLECs face surrounding the existing intercarrier compensation regime and high-cost universal service mechanisms.[10] Furthermore, various reform proposals now under consideration in the Universal Service-ICC Transformation proceeding[11] have had chilling impact on broadband investment.

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[8] *Id.*, ¶30.
[9] *Id.*, ¶29.
[10] Among other things, this includes unbillable "phantom" traffic, the "self help" that many VoIP providers engage in by not paying intercarrier compensation for the use of RLECs' networks, and the "race to the top" that occurs under the cap on high-cost loop support.
[11] *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, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554 (2011).

To address these obstacles and encourage the sustainable provision of broadband in RLEC service areas, the Commission should adopt, as filed, the RLEC Plan for USF and ICC reform, as amended by the "Consensus Framework" agreed to by the Rural Associations and six price cap ILECs.[12] Notably, the amended RLEC Plan is designed to be consistent with the Commission's principles for USF and ICC reform *without* compromising the availability and affordability of both quality voice and broadband services for consumers throughout RLEC service areas. Specifically, the amended RLEC Plan will:

- *Modernize USF and ICC for Broadband:* The amended RLEC Plan achieves the Commission's goal of modernizing USF and ICC for broadband in a manner that is "specific, predictable and sufficient" as required under section 254 of the Telecommunications Act of 1996 (1996 Act). In addition, the RLEC Plan establishes a clear and well-defined path for transitioning from today's voice-oriented support mechanisms to one that explicitly supports broadband and Internet protocol (IP)-capable networks. In particular, that transition path encourages RLECs to promote broadband adoption by permitting an increasing level of cost recovery from the interstate jurisdiction based on carriers' broadband adoption rates. Moreover, the RLEC Plan promotes responsible investment that will both keep high-cost areas "served" where broadband is currently deployed and, subject to the availability of

[12] The Consensus Framework arose out of detailed negotiations among parties whose individual views of USF and ICC reform diverge greatly. All parties made substantial concessions in the interest of obtaining an industry consensus that would enable regulatory certainty and promote the provision of broadband. Thus, any modifications to the amended RLEC Plan could easily undermine the carefully balanced compromises that were made to produce a workable solution and collapse a breakthrough agreement.

necessary incremental funding, permit the responsible edging-out of broadband into currently unserved high-cost areas.

- *Achieve Fiscal Responsibility:* The Consensus Framework serves the Commission's aim for fiscal responsibility by establishing an annual $4.5 billion budget target for the total USF High Cost program (including funding for access restructuring) for a budget period of 2012-2017.[13] In addition, the Consensus Framework establishes an annual funding target for areas served by rate-of-return carriers that begins at $2 billion and that is projected to increase by $50 million per year for six years (resulting in a total annual funding target of $2.3 billion in the sixth year). Also, the amended RLEC plan permits carriers to continue broadband deployment efforts in line with responsible engineering practices, while ensuring that those future deployment efforts are not artificially influenced by any incentives to "race to the top." The amended RLEC Plan also addresses concerns with respect to efficiencies by extending a limitation on recovery of corporate operations expenses across all federal support mechanisms.
- *Ensure Accountability:* The amended RLEC Plan ensures accountability by carrying forward and recasting critical Carrier of Last Resort (COLR) responsibilities for a broadband environment, and the Commission should demand that all USF recipients live up to these responsibilities.

[13] The Consensus Framework does not envision any automatic extension of specified targets beyond the "budget period" ending in 2017. Rather, it relies upon the Commission's statutory obligation to ensure sufficient, predictable, and specific funding is available to fully satisfy universal service mandates, irrespective of any desired budget number. Indeed, those mandates exist independent of the Consensus Framework agreement and upon expiration of the budget period the Commission would simply fund universal service obligations as necessary to meet those obligations.

- *Implement a Market-Driven Approach to USF and ICC Reform Policies:* The amended RLEC Plan incorporates effective and efficient incentives for broadband deployment and adoption. The Plan also provides a clear and well-defined transition path for phasing out current federal high cost recovery mechanisms, and catalyzes the migration to a broadband-focused Connect America Fund (CAF).

Moreover, the amended RLEC Plan enables carriers to focus on broadband deployment and adoption by attempting to avoid "flash cuts" that would cause rural consumers and businesses to experience service disruptions, declines in service quality, or drastic changes in rates for services. Finally, by relying on in-place accounting, ratemaking and regulatory mechanisms to the extent possible, the Plan is designed to be implemented in a relatively rapid time frame, and is assured of being administratively workable for the long term.

Therefore, the Commission should adopt, as filed, the RLEC Plan for USF and ICC reform as amended by the Consensus Framework without delay.

B. The Commission can accelerate the deployment of broadband by expanding the base of USF contributors to include, at a minimum, all broadband Internet access providers

For the past decade, a robust record has been developed[14] which demonstrates that the Commission should immediately expand the base of USF contributors to include, at a

[14] *See 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 Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6475 (2008) at 6536-6564, 6669-6695, 6735-6762, App. A, ¶¶92-156, App. B, ¶¶39-104, App. C, ¶¶88-151 (*Comprehensive Intercarrier Compensation and Universal Service Fund Reform FNPRM*); *Commission Seeks Comment on Staff Study Regarding Alternative Contribution Methodologies*, CC Docket Nos. 96-45,

minimum, all broadband Internet access providers.[15] As distribution mechanisms are reformed to reflect the marketplace's transition to a broadband environment, it becomes increasingly problematic to retain the USF contribution methodology's exclusive reliance on a dwindling base of revenues derived from interstate and international telecommunications (and, to a more limited degree, interconnected voice over Internet protocol (VoIP)) services.

Broadband Internet access providers collectively represent a large and growing source of connections and revenues, and account for an increasing amount of overall network utilization. By requiring contributions from all of these providers, the Fund could be properly sized to "do the job" in terms of supporting truly robust and sustainable broadband deployment and operations in rural areas without imposing an unreasonable universal service fee on each service that is assessable for contributions.[16]

Furthermore, it is logical that the contributors to the USF should be aligned with the purpose of its distributions. Requiring all broadband Internet access providers to

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98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72, Public Notice, 18 FCC Rcd 3006 (2003); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, CC Docket No. 98-171, *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, *Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size*, CC Docket No. 92-237, NSD File No. L-00-72, *Number Resource Optimization*, CC Docket No. 99-200, *Telephone Number Portability*, CC Docket No. 95-116, *Truth-in-Billing and Billing Format*, CC Docket No. 98-170, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952 (2002); *Federal-State Joint Board on Universal Service*, *et. al.,* CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72, Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd 3752 (2002); *Federal-State Joint Board on Universal Service*, *et. al.*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, NSD File No. L-00-72, Notice of Proposed Rulemaking, 16 FCC Rcd 9892 (2001).

[15] Other contribution sources should include non-interconnected VoIP and texting providers. In addition, the Commission should consider how other services which rely a robust, ubiquitous broadband network could contribute.

[16] This could occur after 2017, when the budgetary targets agreed to under the Consensus Framework have expired.

contribute equitably to the Fund is harmonious with a High Cost program that is being reformed to more directly support broadband, as these providers and their customers will all benefit from a ubiquitous broadband network. As a result, the total cost of the Fund would be distributed more equitably among service providers and consumers.

Section 254 of the Communications Act, as amended, demands that consumers in rural areas will have access to telecommunications and information services, including advanced services, that are reasonably comparable in price and quality to those enjoyed by their urban counterparts. However, it will become increasingly difficult for the Commission to fulfill this mandate if the reformed High Cost program remains solely reliant on contributions from services from which the *system expressly aims to migrate over time*. Expanding the contribution base to include, at the very least, all broadband Internet access providers is necessary to address this growing disparity and address the illogical inconsistency of building tomorrow's networks on the backs of today's and yesterday's services. By basing universal service support on an expanding, rather than a shrinking, contribution base, the Commission will have the resources necessary to ensure the ongoing availability of affordable, robust broadband services to all Americans in a reasonable and timely fashion.

C. The Commission can accelerate adoption and deployment of broadband services by removing barriers to RLECs' access to video content

The NOI notes that the Commission has determined that "lack of relevance of broadband for some consumers" is among the barriers that impedes the reasonable and

timely deployment and adoption of broadband.[17] However, as consumers increasingly obtain video programming – including traditional subscription video services – through broadband connections, the relevance of broadband is significantly enhanced and expanded. Data suggests that when subscription video services are available to consumers along with broadband offerings, broadband adoption rates go up. For example, in a 2009 study, NECA found that members of its Traffic Sensitive Pool offering broadband using Digital Subscriber Line (DSL) technology along with a video component had DSL adoption rates nearly 24 percent higher than those companies offering DSL without access to subscription video services.[18]

Higher broadband adoption rates of course make it more feasible for service providers to invest in broadband infrastructure. The Commission has previously recognized this intrinsic link between a provider's ability to offer video service and to deploy broadband networks.[19] This assessment has recently been reinforced by state regulators.[20] Therefore, one of the most effective methods available to the Commission to encourage adoption and, by extension, the further deployment of advanced services is to improve broadband providers' access to video content,[21] including a thorough revision of the antiquated retransmission consent rules. Reform of these rules is needed to enable

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[17] NOI, ¶29.
[18] NECA comments, GN Docket Nos. 09-47, 09-51, 09-137, p. 6 (Dec. 7, 2009).
[19] *See*, *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket No. 05-311, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 5101, 5132-33, ¶62 (2007) (MDU Order).
[20] *See*, *Resolution on Fair and Non-Discriminatory Access to Content*, National Association of Regulatory Utility Commissioners, (adopted Feb. 16, 2011), available at http://www.naruc.org/Resolutions/Resolution%20on%20Fair%20and%20Non%20Discriminatory%20Access%20to%20Content.pdf .
[21] Comments of OPASTCO, NTCA, the Independent Telephone and Telecommunications Alliance (ITTA), WTA, and the Rural Independent Competitive Alliance (RICA), MB Docket No. 07-269 (filed June 8, 2011), pp. 1-9.

RLECs to gain access to video content at affordable rates and on reasonable terms and conditions.

Section 706 of the 1996 Act provides the Commission with ancillary authority to reform the retransmission consent rules, while primary authority is derived from 47 U.S.C. §325(b)(3)(A).[22] Moreover, the Commission has previously drawn from its ancillary authority under section 706 to bolster its direct authority under the Cable Act to further the public interest with respect to consumers' access to video services.[23] Notably, this precedent was set when the Commission had determined under section 706 that broadband deployment was being deployed to all Americans in a reasonable and timely fashion.

Subsequently, as the NOI notes,[24] the Commission reversed that finding and determined that deployment is not occurring in a reasonable and timely fashion, mostly in rural communities located throughout the country. In this case, as the NOI again highlights, the Commission is *required* under section 706 to "take *immediate action* to accelerate deployment"[25] of advanced services by removing barriers to infrastructure investment. Given the established linkage between access to video content and broadband deployment, the antiquated retransmission consent regime is certainly a significant barrier that the Commission should remove without delay.

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[22] Comments of OPASTCO, NTCA, ITTA, WTA, and RICA, MB Docket No. 10-71 (filed May 27, 2011), pp. 3-5.

[23] In the MDU Order, the Commission acted to promote consumers' access to video programming and to enhance competition in the video marketplace. Correctly concluding that this action would concurrently lower barriers to broadband deployment and investment, the Commission also recognized that its decision advanced the purposes of, and was therefore authorized by, both the 1992 Cable Act and section 706 of the 1996 Act. *See* MDU Order, ¶52; *see also Id.*, ¶47. In the instant proceeding, the Commission once again has a similar opportunity to exercise the authority conveyed by, and advance the goals of, these two legislative provisions.

[24] NOI, ¶28.

[25] *Id.*, citing 47 U.S.C. §1302(b) (emphasis added).

III. THE COMMISSION SHOULD RECOGNIZE THAT MOBILE BROADBAND SERVICES ARE NOT VIABLE SUBSTITUTES FOR ROBUST FIXED BROADBAND SERVICES

The NOI notes that the Commission has thus far declined to adopt technology-specific broadband speed thresholds, and inquires if there are any other issues that should be considered related to different delivery technologies in the context of defining advanced telecommunications capability.[26] As the Commission proceeds with reform of the USF High Cost program to reflect a broadband marketplace, it should not equate mobile broadband services with high-capacity fixed broadband services, or treat the two as interchangeable substitutes for one another. They are not.

To be sure, mobility offers distinct features, and rural consumers expect to have access to these services the same way their urban counterparts do. Therefore, there is merit to having separate high-cost support mechanisms for fixed broadband networks and mobile wireless broadband networks. Among other things, separate mechanisms would make it easier for the Commission to take account of differences in capacity between the two technologies.[27]

The Commission should not, however, make the mistake of treating mobile broadband services as viable substitutes for more robust, scalable fixed broadband services.[28] The mobile wireless industry itself points out that wireless users must share

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[26] NOI, ¶7.
[27] Rural Associations' April 18 Comments, pp. 83-85.
[28] *See, e.g.*, Martin Scott, *Operators Should Position Mobile Broadband as a Complement to Fixed, Not a Substitute,* Analysis Mason, Feb. 22, 2011 (available at: http://www.analysysmason.com/About-Us/News/Newsletter/Operators-shouldposition-mobile-broadband-as-a-complement-to-fixed-not-a-substitute/?journey=1391) ("Attempts to sell mobile broadband as a substitute to fixed are likely to fail as there is a strong perception among consumers that mobile broadband is not as fast, more unreliable and more pricey than fixed broadband").

limited spectrum, and that mobile networks are constrained by physical capacity limits. As CTIA has explained to the Commission:

- The capacity of a wireless cell site is shared between all users in that cell. The wireless user must share the available bandwidth with other users in their vicinity.
- The capacity of a cell is shared between all services running over the network. Wireless voice and data use share the finite capacity of the cell.
- Wireless providers cannot "build their way out" of spectrum constraints. Unlike wired services that can add capacity through greater buildout, constraints on expansion of network capacity are a reality for spectrum-based services.[29]

Thus, the mobile wireless industry has demonstrated that, due to limited capacity and lack of scalability, mobile broadband networks are unable to keep pace with the evolving bandwidth needs of consumers.[30] In addition, mobile networks are ultimately dependent upon landline networks to function and are only as good as the wireline networks to which they connect.[31] For these reasons, mobile networks are not equipped to fulfill the COLR responsibilities carried out by wireline-based network providers..

If rural consumers are to benefit from all of the same transformational bandwidth-intensive applications and services that are available to other consumers, then mobile broadband needs to be recognized as a complement to, not a substitute for, fixed broadband. Due to their inherent constraints, mobile wireless broadband providers

[29] CTIA, *Notice of Ex Parte Presentation*, GN Docket No. 09-191 and WC Docket No. 07-52 (filed Sept. 17, 2010), Attachment, p. 3.
[30] The Commission has observed that the average advertised speed purchased by broadband users has grown approximately 20 percent each year for the last decade. *See* Connecting America: The National Broadband Plan (rel. Mar. 16, 2010), p. 20.
[31] *See* Comments of NECA, NTCA, OPASTCO and WTA, WC Docket No. 10-90, *et. al.* 07-135, (filed Aug. 24, 2011), p. 11: "High-capacity wireline special access services provide essential interconnection and backhaul functions for wireless carriers. In addition, wireline networks offload much of the high-volume data and video traffic that can cripple wireless networks if they were required to carry it."

should qualify for support under a complementary mobility fund,[32] but not the Connect America Fund used to support broadband providers-of-last-resort in RLEC service areas.

IV. THE AVAILABILITY OF HIGH-SPEED BROADBAND TO ANCHOR INSTITUTIONS IS NOT SUFFICIENT, BY ITSELF, TO FIND THAT BROADBAND IS BEING DEPLOYED TO ALL AMERICANS IN A REASONABLE AND TIMELY FASHION

The NOI seeks comment on whether its assessment of the availability of broadband to all Americans should include availability at "community anchor institutions" and other publicly available access points.[33] The Associations agree that it is critical for community anchor institutions in rural service areas to have access to a high-quality broadband network. However, the availability of high-speed broadband to community anchor institutions should in no way be considered a reasonable substitute for the availability of high-speed broadband connections to rural residences and businesses.

To appreciate the value a robust broadband connection conveys to rural homes and businesses, the Commission need only consider the various "national purposes" listed in the American Recovery and Reinvestment Act of 2009 (ARRA).[34] For example, the widespread availability of high-speed connections throughout a rural area creates economic opportunity by attracting new businesses to the area, retaining existing ones, allowing residents to "telework," and enabling interactive job training from home. In addition, robust residential broadband connections are necessary for health care applications such as remote patient monitoring. They are also necessary to advance the

[32] In fact, the Consensus Framework proposes an initial funding target of $300 million *per year* for mobility objectives. This proposed funding level is substantially superior to the Commission's proposal for a *one-time* infusion of $100 - $300 million for the construction of mobile broadband infrastructure in unserved areas.
[33] NOI, ¶19.
[34] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009), §6001(k)(1).

nation's educational goals by allowing students of all ages to engage in online learning from the convenience of their home.

Thus, the availability of high-speed broadband connections only to rural community anchor institutions and coffee shops would not maximize the advancement of the "national purposes" enumerated in the ARRA and would fail to make "reasonably comparable" broadband services available in rural areas. As a result, it would not achieve broadband availability in a reasonable and timely fashion to all Americans. To achieve all of these Congressional objectives, robust, affordable broadband connections must be available to rural residences and businesses, and RLECs will require ongoing sufficient and predictable universal service support to make that a reality.

V. CONCLUSION

To achieve the Congressional objectives contained in sections 706 and 254 of the 1996 Act, the Commission should:

- adopt the RLEC Plan for USF and ICC reform as modified by the Consensus Framework;
- expand the base of USF contributors to include, at a minimum, all broadband Internet access providers;
- remove barriers to RLECs' access to video content through reform of program access rules, notably retransmission consent;
- recognize that mobile broadband services are not viable substitutes for robust fixed broadband services; and
- recognize that the availability of high-speed broadband to anchor institutions is not sufficient, by itself, to find that broadband is being deployed to all Americans in a reasonable and timely fashion.

Respectfully submitted,

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