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January 18, 2018

Attention: Zachary Rogala
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

RE: N2017.10.82 – Blackfoot Response to Notice of Investigation

Dear Mr. Rogala:

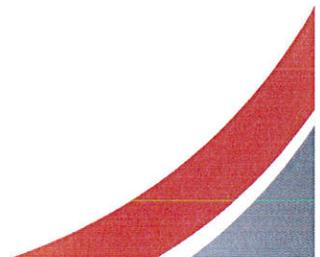
Blackfoot Telephone Cooperative, Inc. ("Blackfoot") respectfully provides the attached comments in response to the Montana Public Service Commission's ("Commission") Notice of Investigation and Opportunity for Comment in Docket No. N2017.10.82. Attached please find one original and four copies of Blackfoot's comment. Blackfoot also uploaded an electronic copy of the attached.

If you have any questions or require additional information please feel free to contact me at 406-541-5131 or by e-mail at mowens@blackfoot.com

Sincerely,

A handwritten signature in blue ink that reads 'Michelle Lee Owens'. The signature is written in a cursive style and is positioned above a horizontal line.

Michelle Owens
Regulatory Specialist



**DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MONTANA**

IN THE MATTER OF the Investigation into)	REGULATORY DIVISION
Improving Transparency, Fostering Accountability,)	
and Maintaining Quality Services for High Cost)	DOCKET NO. N2017.10.82
Support and Lifeline Services in Montana)	

BLACKFOOT'S COMMENT

Blackfoot Telephone Cooperative, Inc. (“Blackfoot”) responds to the Montana Public Service Commission’s (“Commission”) Notice of Investigation and Opportunity for Comments (“NOI”) below. But before it answers the Commission’s questions from the NOI (see **Section IV** starting on page 10), in (1) **Section I** starting on page 1 Blackfoot provides the Commission a brief summary of its history and how the Alternative Connect America Cost Model (“A-CAM”), the mechanism by which Blackfoot receives its federal Universal Service funding, works, (2) **Section II** starting on page 3, Blackfoot provides the Commission a brief summary of the benefits of expanding and improving access to affordable, high-speed broadband to rural Montana, and of the broad consensus at all levels of the Federal government regarding the continued need to expand and improve such access, and (3) **Section III** starting on page 6, Blackfoot outlines: the regulatory reporting requirements Blackfoot is already under and parameters the Telecommunications Act of 1996 (the “Act”) places on a State’s ability to regulate universal service.

I. BLACKFOOT’S HISTORY AND THE ALTERNATIVE CONNECT AMERICA COST MODEL

Blackfoot provides voice and broadband services to some of the most remote portions of Montana. With an approximately 6,000 square mile service territory, Blackfoot averages about two customer locations per square mile. Blackfoot’s service territory covers communities like Noxon, Thompson Falls and Plains to the west and Drummond, Phillipsburg, and Elliston to the east. Founded in 1954 by a group of ranchers, educators, and small business-people, Blackfoot brought telephone service into the Blackfoot River valley because the then-incumbent provider, Mountain Bell, was unwilling to do so. In its early days, the only way Blackfoot could provide service was through federal-government subsidized loans and implicit federal USF funding that came to Blackfoot through a series of complicated inter-carrier settlements. Without these early forms of USF, there would never have been any telephone service (or at least very little) to vast portions of Blackfoot’s service territory. Without telephone service, it is questionable if many of the rural communities in Blackfoot’s service area would even exist.

After passage of the Act in 1996, Blackfoot received explicit USF support from the newly established USF fund. Importantly, USF was not a new funding mechanism, but an explicit fund established to replace

the series of complicated implicit subsidies. At about the same time, technology was changing and broadband became part of Blackfoot's service offerings. Prior to 2017, high-cost providers had to offer voice and broadband service as a bundle to their customers to receive federal USF. That all changed when in 2016 the FCC released the Rate-of-Return Reform Order (the "Reform Order").¹

The Reform Order gave high-cost USF recipients two different options for receiving their high-cost USF: (1) revised, legacy "rate of return" support; and (2) A-CAM based support. Blackfoot had been a strong advocate of A-CAM support for years leading up to the Reform Order, and A-CAM is the methodology elected by Blackfoot.

A-CAM is a model, designed and developed by a third-party consulting firm and the FCC. The model contains extensive capital and operating cost information gathered from numerous sources. The model also contains US Census Bureau information to identify the number of serviceable locations within an ILEC's service territory. The A-CAM model uses these inputs to develop costs to build a new, fiber-based broadband network to all locations within the ILEC's service territory assuming the most efficient construction methods are used.

Importantly, the Reform Order requires ILECs that elected A-CAM USF support to deploy additional broadband services to more of the people living in their service territories. Put differently, A-CAM USF comes with an obligation to build-out more broadband.

More specifically, ILECs that elected A-CAM, like Blackfoot, are eligible for A-CAM funding for 10 years, during which time they have defined build-out obligations.² Below is a summary of some of Blackfoot's obligations:

1. For locations that are "fully-funded" Blackfoot must—for voice and existing broadband service—by the end of the 10-year term offer at least (1) 10/1 Mbps to all location—7,649 locations, and (2) because the density of Blackfoot's study areas in Montana have five or fewer housing units per square mile, 25/3 Mbps to at least 25% of the locations—2,549 locations.³
2. For "capped" locations (e.g. with a calculated average cost above the "funding cap"), by the end of the 10-year term Blackfoot must offer 4/1 Mbps to 25% of the capped locations—1,035 locations.⁴

¹ Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking ("The Rate of Return Reform Order"), FCC 16-33, released March 30, 2016.

https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-33A1.pdf

² In fact, during year eight the FCC plans to conduct a rulemaking to extend the A-CAM longer than the initial 10 years. See Reform Order ¶122.

³ Reform Order ¶125.

⁴ Id. ¶126.

- In addition to achieving the milestones shown in paragraphs 1 and 2 by the end of the 10-year term, Blackfoot must comply with the following interim deployment milestones⁵:

Deployment Milestones for Rate-of-Return Carriers Receiving Model-Based Support

Year 1 (2017)	**%
Year 2 (2018)	**%
Year 3 (2019)	**%
Year 4 (2020)	40%
Year 5 (2021)	50%
Year 6 (2022)	60%
Year 7 (2023)	70%
Year 8 (2024)	80%
Year 9 (2025)	90%
Year 10 (2026)	100%

- Blackfoot must comply with strict FCC and USAC reporting requirements.⁶
- If Blackfoot does not comply with its obligations under the Reform Order, Blackfoot is subject to non-compliance penalties, which are shown below⁷:

Non-Compliance Measures

Compliance Gap	Non-Compliance Measure
5% to less than 15%	Quarterly reporting
15% to less than 25%	Quarterly reporting + withhold 15% of monthly support
25% to less than 50%	Quarterly reporting + withhold 25% of monthly support
50% or more	Quarterly reporting + withhold 50% of monthly support for six months; after six months withhold 100% of monthly support and recover percentage of support equal to compliance gap plus 10% of support disbursed to date

As shown above, the Reform Order includes specific requirements for how A-CAM dollars are to be spent as well as specific penalties for failure to meet the required broadband build-out obligations. Blackfoot's obligations under the Reform Order more than adequately satisfy the transparency, accountability, and quality of service obligations the Commission may seek to impose in response to comments it receives from the NOI.

II. THE BENEFITS OF AFFORDABLE HIGH-SPEED BROADBAND

The importance of affordable high-speed broadband to rural communities was confirmed in the USDA's Task Force on Agriculture and Rural Prosperity's recent report dated October 21, 2017 (the "USDA Rural Prosperity Report"), which report was commissioned by executive order. There the task force

⁵ Id. ¶¶32.

⁶ Id. ¶¶ 79, 205-223.

⁷ Id. ¶78.

concluded that in rural America: “e-connectivity is not simply an amenity—it has become essential”⁸ and “[r]eliable and affordable high-speed internet e-connectivity will transform rural America as a key catalyst for prosperity.”⁹ The task force’s conclusions carry considerable weight in light of the heavy-hitters who are on it, the: Secretary of the Treasury, Secretary of Defense, U.S. Attorney General, Secretary of the Interior, Secretary of Commerce, Secretary of Labor, Secretary of Health and Human Services, Secretary of Transportation, Secretary of Energy, Secretary of Education, Administrator of the EPA, Chairman of the FCC, Director of the Office of Management and Budget, Director of the Office of Science and Technology Policy, Director of the Office of National Drug Control Policy, Chairman of the Council of Economic Advisers, Assistant to the President for Domestic Policy, Assistant to the President for Economic Policy, Administrator of the Small Business Administration, US Trade Representative, Director of the National Science Foundation, and heads of other executive departments, agencies, and offices as the President or Secretary of Agriculture designate. Suffice it to say, there is a broad consensus regarding the need to expand and improve access to high-speed, affordable broadband in rural communities in our country.

As of 2015 the rural broadband industry supported approximately 70,000 jobs and over \$100 billion in commerce.¹⁰ Per the [Montana Telecommunications Association’s 2016 Broadband Report](#), from 2011 to 2016 Montana’s rural telecommunications companies invested \$248,600,000 in fiber deployments, which does not include investments in non-fiber technologies. Despite the significant benefits rural telecommunication companies provide rural America, they face hurdles and roadblocks, some of which can be remedied: like eliminating burdensome regulations.

Unfortunately, too many Americans do not experience the benefits of robust internet service. ... The lack of complete e-connectivity in rural areas can be attributable to many factors. It is particularly challenging and expensive to deploy broadband networks to rural America—namely due to low population density and challenging geography. In addition to these difficulties, broadband providers often face bureaucratic obstacles to building a network, including arduous application processes, lack of access to infrastructure, and burdensome regulatory reviews.¹¹

This excerpt speaks directly to Montana and the Commission that certifies ETCs in Montana. Montana is defined by low population density (0.35 to 3.05 customers per square mile) and challenging geography (resulting in an average per-mile cost of installing fiber in rural communities of \$30,000)—unavoidable

⁸ Secretary Sonny Perdue, Chair, *Report to the President of the United States from the Task Force on Agriculture and Rural Prosperity*, p. 17 (Oct. 21, 2017) (see: <https://www.usda.gov/sites/default/files/documents/rural-prosperity-report.pdf>).

⁹ *Id.* at p. 2.

¹⁰ *Id.* at p. 17.

¹¹ *Id.* at p. 18.

realities Montana rural telecommunications have to deal with in serving rural Montanans.¹² To support Montana's rural communities and help them thrive, the Commission should eliminate burdensome regulations—not increase them. Nor should the Commission refuse to certify ETCs that satisfy the legal criterion for certification, or attempt to eliminate programs providing USF proceeds necessary to construct resilient, next generation broadband infrastructure throughout our great State.

High-speed broadband provides many other benefits to Montana's rural communities. For example, it will help transform the agricultural industry, which is a pivotal sector of Montana's economy and culture. By 2050 the U.S. Census Bureau expects the U.S. population to rise to 400 million. The USDA Rural Prosperity Report concludes: "To supply this number of people with food, American farms need reliable, real-time internet connectivity to oversee operations in the fields, manage finances, and respond to international market conditions," adding: "To match world food demand ... every part of the farm to be connected to the worldwide web, not just the farmhouse."¹³

In addition, affordable, high-speed broadband provides residents of rural Montana communities with (1) affordable access to healthcare and (2) the ability to work from home for employers located in other parts of the State of Montana, country, and world.

High-speed broadband provides transformative benefits to Montana's rural communities by improving access to quality, affordable healthcare. This is very important considering the number of seniors living in Montana's rural communities. Authors of the USDA Rural Prosperity Report stress this point:

High-speed internet access can also address the gap in health services in rural communities. Telehealth and telemedicine allow rural residents to connect to distant healthcare professionals, conduct remote monitoring of chronic medical conditions, and access specialists that may not work in their local health facilities. Remote healthcare through telehealth and telemedicine also reduces the cost of care, improves patient outcomes, and reduces the burden on patients.¹⁴

Moreover, according to the Bureau of Labor Statistics, between 2003 and 2015, in the United States the percentage of workers who work outside of the office increased from 19 to 24 percent.¹⁵ As this statistic demonstrates, the number of "remote workers" living in Montana will increase over time, which will increase populations in rural Montana communities which, in turn, will help these rural communities thrive and bring

¹² Montana Telecommunications Association, 2016 Broadband Report (see: http://www.broadbandmt.com/wp-content/uploads/2016/10/MTA_Broadband_Report_2016.pdf).

¹³ USDA Rural Prosperity Report, p. 18.

¹⁴ USDA Rural Prosperity Report at p. 19.

¹⁵ Id.

additional tax dollars to our State, which is currently in a budget crisis. As noted in the [2017 Montana Economic Report](#), “[r]ural communities gain new vitality by attracting remote workers, but fast broadband is a requirement.”¹⁶

Affordable high-speed broadband also provides Montana’s rural residents access to education opportunities that they otherwise would not have access to. Rural schools often lack the resources to provide up-to-date educational materials to their students. Fortunately, high-speed, affordable broadband opens up endless educational opportunities for these schools and students. Thanks to the USF and significant investments by Montana’s rural telecommunications companies, broadband has helped current students—and will continue to help future generations of Montanans—compete in a very competitive world.

III. BLACKFOOT’S EXISTING REPORTING REQUIREMENTS AND STATE REGULATION OF UNIVERSAL SERVICE

The USF is necessary to ensure Montana’s rural residents, for-profit and non-profit businesses, schools, hospitals, libraries, and Blackfoot’s other customers, have access to high-speed, affordable broadband, which in today’s technology and internet-based world is an absolute necessity to the economic viability of individuals, businesses, and communities Blackfoot serves. For example:

- In Phillipsburg, Montana, the services Blackfoot provides (1) [The Sweet Palace](#)¹⁷ enables it to sell and distribute its candy all over the U.S., (2) [Philipsburg Brewing Company](#)¹⁸ help it to sell and distribute its craft beers to every corner of Montana.
- Blackfoot’s services help some of Montana’s premier resorts—[The Resort at Paws Up](#)¹⁹, [The Ranch at Rock Creek](#)²⁰, and [Double Arrow Lodge](#)²¹—reach and better communicate with their clientele, showing many in-state residents and out-of-state tourists what Montana has to offer.
- In Heron, Montana, the services Blackfoot provides [Clearview Horizon](#)²²—a treatment center for teenage girls troubled with life-controlling issues or misbehavior—help it reach and treat teenagers who live inside and outside Montana. A few testimonials can be found [here](#)²³ (from students) and [here](#)²⁴ (from parents).

¹⁶ Shook, Christopher, Dean of the school of Business Administration at the University of Montana, et al., *2017 Montana Economic Report – An Analysis and Assessment of Montana’s Economic Performance* (Produced by: Bureau of Business and Economic Research; see: <http://www.bber.umt.edu/pubs/Seminars/2017/EconRpt2017.pdf>).

¹⁷ The Sweet Palace’s website, <https://www.sweetpalace.com/>.

¹⁸ Philipsburg Brewing Company’s website, <https://www.philipsburgbrew.com/>.

¹⁹ The Resort at Paws Up’s website, <https://www.pawsup.com/>.

²⁰ The Ranch at Rock Creek’s website, <https://www.theranchatrockcreek.com/>.

²¹ Double Arrow Lodge’s website, <http://doublearrowresort.com/>.

²² Clearview Horizon’s website, <https://www.clearviewhorizon.com/about-us/>.

²³ Clearview Horizon – Student Testimonials, <https://www.clearviewhorizon.com/testimonials-and-reviews/student-testimonials/>.

²⁴ Clearview Horizon – Parent Testimonials, <https://www.clearviewhorizon.com/testimonials-and-reviews/parent-testimonials/>.

- Blackfoot provides high-quality services to schools in St. Regis, Thompson Falls, Plains, Dixon, and other rural communities, helping students and teachers launch personal online learning platforms so every student can enhance their education beyond what they otherwise would be able to, doing so at their own pace.
- Blackfoot's services help many hospitals—like [Clark Fork Valley Hospital](#)²⁵, which has locations in Plains, Hot Springs, and Thompson Falls—effectively communicate their areas of care, educational opportunities, and other imperative information to the communities they serve.
- In Sanders County, Montana, Blackfoot provides service to the [Sanders County Ledger](#)²⁶, enabling it to better communicate with and shares important news (in print and online) with Sanders County residents and surrounding communities.
- In Seeley Lake, Montana, Blackfoot's services enable [Citizens Alliance Bank](#)²⁷ to effectively communicate with its corporate headquarters in Minnesota, and provide a host of banking services—including online banking and financing—to help grow and re-build Seeley Lake and its surrounding communities that were significantly impacted by the 2017 fire season.
- Blackfoot's services enable some of Montana's remaining lumber companies—like [Thompson River Lumber](#)²⁸ in Thompson Falls, and [Pyramid Lumber](#)²⁹ in Seeley Lake—to provide services and sell products to their local communities and communities throughout Montana and the U.S.
- Blackfoot's services help the [Confederated Salish & Kootenai Tribes](#)³⁰ communicate with their members, including but not limited to the numerous and important services the Tribe provides.

Moreover, Blackfoot has more than 20 schools in its cooperative service territory that receive federal E-Rate dollars. E-Rate is another program under the larger USF umbrella. This in addition to the dozens of hospitals, community centers, libraries, nonprofits, and other institutions that are often core to the sustainability of rural communities. Without USF, Blackfoot would not be able to provide the same level of service it currently provides to these entities, having a devastating impact on those small towns.

Blackfoot is already very heavily regulated. Adding further regulations, reporting obligations, and/or procedural/hearing requirements will only require Blackfoot to spend additional strained man-hours and financial resources. To support its annual receipt of USF support Blackfoot is subject to several reporting requirements, all of which are filed with the FCC and USAC, and many of which the Commission receives copies of, or has access to, through USAC. Following is a complete list of Blackfoot's compliance activity undertaken to ensure compliance with Universal Service obligations:

- *FCC Form 555 and 497s* - To start each year, Blackfoot files its Annual Lifeline Certification via FCC Form 555 with USAC, the FCC, the Confederated Salish and Kootenai Tribes ("CSKT") and

²⁵ Clark Fork Valley Hospital's website, <http://www.cfvh.org/community/default.aspx>.

²⁶ Sanders County Ledger's website, <http://www.sclledger.net/>.

²⁷ Citizens Alliance Bank's website, <https://www.citizensalliancebank.com/>.

²⁸ Thompson River Lumber's website, <http://www.thompsonriverlumber.com/>.

²⁹ Pyramid Lumber's website, <http://www.pyramidlumber.com/>.

³⁰ CSKT's website, <http://www.csktribes.org/services>.

the Commission by January 31. Filed pursuant to 47 C.F.R. § 54.416(b) and § 54.410(d), FCC Form 555 (an annual filing) provides certification that Blackfoot complies with Lifeline rules and recertification obligations, and provides lifeline customer counts. FCC Form 555 is in addition to monthly FCC 497 filings and officer certifications, which report the lifeline customers served during each billed data month to USAC. These filings provide transparency and accountability in regards to Lifeline funds received by Blackfoot consumers.

- *Lifeline Recertification, NLAD, National Verifier, and Audits* – Blackfoot elected to have USAC obtain re-certifications from Blackfoot’s Lifeline consumers. That election was made to reduce the strain on internal resources and to provide another layer of accountability and transparency. USAC contacts Blackfoot customers annually to obtain certifications that they remain eligible for Lifeline support. Blackfoot audits customers entered into the USAC NLAD system against Blackfoot’s billing systems monthly to ensure Blackfoot is appropriately collecting Lifeline support for customers. Blackfoot is actively engaged in the National Lifeline Eligibility Verifier³¹ (“National Verifier”) implemented by the FCC and USAC to ensure a successful transition to the new USAC processes for customers once the National Verifier moves into soft launch for Montana. In addition to its own internal audits, Blackfoot has responded to USAC audits of Lifeline every other year since roughly 2003. Every aspect of the USAC tools, re-certifications, and audits are intended to increase transparency and accountability.
- *HUBB* - On March 1, 2018, Blackfoot will begin submitting buildout data via the USAC HUBB portal. The March 1, 2018, filing will be for broadband buildouts completed in 2017. Blackfoot will submit buildout data in the same manner each subsequent year. The FCC, USAC, and Commission have access to data filed using the HUBB portal. Eventually, the HUBB data will include not only new buildout locations but existing locations as well. This data provides broadband deployment by location using latitude and longitude (to six decimal places, to ensure accuracy and eliminate the potential for location duplication). Data filed in the HUBB provides transparency and accountability in relation to A-CAM funds received by Blackfoot.
- *§ 54.304* - In June of each year Blackfoot files its annual 47 C.F.R. § 54.304 filing, which provides details on its Connect America Fund (“CAF”) and Intercarrier Compensation (“ICC”) funding³² for the coming period. A copy of this filing is provided to the Commission, the FCC, and USAC. CAF/ICC funding is associated with the FCC’s reform of intercarrier compensation and is designed to offset a portion of the losses companies experienced when the FCC elected to transition terminating intercarrier compensation to a bill-and-keep model. This filing is intended to provide transparency and accountability as related to CAF/ICC funds.
- *FCC Form 481* - By July 1 of each year Blackfoot files Annual Reporting using the FCC Form 481, which filing includes financial data, service counts, pricing information, various certifications, and detailed descriptions of how Blackfoot is in compliance with applicable laws and eligible for support. The 481 is filed with USAC, FCC, the CSKT and the Commission, as required by 47 C.F.R. § 54.313. In 2017, the 481 filing included:
 - reporting on outages;
 - unfulfilled requests for service;
 - complaints;

³¹ Lifeline National Verifier, USAC website containing additional details: <https://usac.org/li/tools/national-verifier/default.aspx>

³² Connect America Fund (CAF), FCC CAF Website: <https://www.fcc.gov/general/connect-america-fund-caf>.

- service quality and consumer protection certification;
 - emergency functionality certification;
 - voice and broadband prices;
 - affiliate identification;
 - demonstration of tribal engagement;
 - voice and broadband rate comparability certification;
 - certification terrestrial backhaul options;
 - lifeline terms and conditions;
 - and, a certification that steps have been taken to provide broadband service upon request in a reasonable amount of time.
- *October 1 Commission Certification* – The Commission requires Blackfoot to file an affidavit and information in support of Blackfoot’s application for ETC recertification each year in support of its filing with the FCC.
 - *FCC Form 499Q and 499A* – Blackfoot and its subsidiaries contribute to the universal service fund. Revenues are reported quarterly on the 499Q forms and then true-up using the annual 499A in April of each year. The reports are based on the companies’ income statements and identify interstate retail revenues subject to contribution obligations. These filings are made with USAC.
 - *Annual Noticing Requirement* - Lastly, each year Blackfoot notifies all residents in its service area of its service availability, including the then-current rates, as required by 47 C.F.R. § 54.201(d)(2).

In addition, Blackfoot is extensively audited. First, Blackfoot contracts annually with a third-party consulting firm to conduct an internal audit. Second, Blackfoot is subject to random audits from the Universal Service Administration Corporation, the entity which administers the USF. Third, Blackfoot is subject to random audits from the FCC’s Office of Inspector General. Fourth, Blackfoot has received random audits from the National Exchange Carrier Association.

In addition to these extensive audits, Blackfoot contracts with a third party to conduct a cost study. The cost study separates Blackfoot’s cost of service between state and federal jurisdiction. Prior to Blackfoot selecting A-CAM support, the cost study also ensured that Blackfoot was including only those expenses allowed by the FCC’s USF rules. In electing A-CAM support, a detailed cost study is no longer needed to determine the amount of USF Blackfoot receives, but Blackfoot still conducts a cost study for purposes of determining its interstate special access rates.

As demonstrated above, extensive safeguards already exist to ensure that USF recipients are not engaged in waste, fraud, and abuse of their high-cost USF. Additional Commission regulations are unnecessary. Moreover, the Act clarifies that Commission regulations may not “prohibit or have the effect of

prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.”³³ By law Commission regulations: may not be inconsistent with the FCC’s rules; and may only contain additional definitions and standards beyond those that are in the Act or a FCC regulation “to preserve and advance universal service within that State [e.g. Montana] only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.”³⁴

For all these reasons, the Commission should refrain from creating any additional regulations or requirements for certification of ETCs in Montana.

IV. BLACKFOOT’S ANSWERS TO THE COMMISSION’S QUESTIONS

1. What opportunities exist for the Commission to more appropriately oversee ETC Services in Montana, as allowed by 45 U.S.C. § 254(f)? The Commission invites comments on the following issues related to ETC Services:

Answer: Blackfoot assumes the Commission means 47 U.S.C. § 254(f).

- Should additional procedures be required for the annual re-certification of existing ETCs or certification of new ETCs, in addition to those already exist in Mont. Admin. R. 38.5.3201-3230?

Answer: No. The Commission should refrain from creating any additional regulations or requirements for certification of ETCs in Montana for the reasons stated above.

- Do the minimum additional requirements in Mont. Admin. R. 38.5.3209 ensure ETC Program funding is appropriately spent?

Answer: Yes.

- Should the Commission request certain existing ETCs to certify or demonstrate the manner in which customers in a designated service area have access to service? [Mont. Admin. R. 38.5.3216\(1\)](#).

Answer: No, as the Federal rules already require ETCs to demonstrate this. In addition to Blackfoot’s extensive reporting obligations under the Reform Order, under 47 C.F.R. §§ [54.313](#), [54.316\(c\)](#), and [54.422](#) ETCs receiving Federal high-cost universal service and lifeline support are required to report annually in their FCC form 481 and HUBB filings (which filings contain location-specific longitudinal and latitudinal data showing the precise location of Blackfoot’s facilities). The annual reports are intended to prove compliance with Federal statutes and regulations, and they take considerable time and resources to complete. Those

³³ 47 USC § 253(a).

³⁴ 47 USC § 254(f).

annual filings are submitted to the Commission pursuant to the FCC's rules or, in the case of § 54.316(c), will be made available to the Commission by USAC. In addition to annual compliance filings, ETCs remain subject to rigorous USAC audits to ensure that there is not waste, fraud, and abuse. Those audits are conducted in relation to both high-cost and lifeline support.

- The Commission's rules provide that a public interest standard will apply to ETC proceedings, citing to a wide number of factors that should be considered. [Mont. Admin. R. 38.5.3210](#). Are all of these factors appropriate to consider? Should any be eliminated or clarified? Should any be added?

Answer: Blackfoot believes the existing rule should remain unchanged.

- Should evidentiary hearings be required to justify recertification of ETCs whose total revenue is comprised substantially from ETC Program funds? If so, what threshold percentage should trigger the hearing?

Answer: No. ETCs already provide the Commission with significant evidence supporting their annual recertifications. See response above to [Mont. Admin. R. 38.5.3216\(1\)](#).

- Applications for new ETCs have traditionally not attracted robust intervention, and the submissions are rarely challenged. Previously, when the Commission has had concerns about an applicant, it has appointed its Staff as a party. *In the Matter of Budget Mobile's Application for Limited Designation as a Non-Rural Wireless Eligible Telecommunications Carrier*, Docket D2012.10.110. Should the Commission appoint its own staff as a party from the outset of every proceeding for a new ETC?

Answer: No. The fact that traditionally ETCs have not attracted robust intervention should serve as a strong signal to the Commission that there is no need to conduct a hearing or otherwise consume valuable staff resources by examining ETCs, the vast majority of which have demonstrated through the voluminous filings they make with USAC, the FCC and this Commission that they are prudently spending their USF and that no waste, fraud or abuse exists in the high-cost USF program.

- The Commission has previously required disclosure of certain financial information, such as executive compensation, which was recently reversed by the Montana Supreme Court. *S. Mont. Tel. Co. v. Mont. PSC*, 2017 MT 123, 387 Mont. 415, 395 P.3d 473. Should the Commission adopt a rule to require disclosure of similar information, including executive compensation, as a requirement for ETCs? Should the Commission limit the rule only to public utilities who are also ETCs?

Answer: No, the Commission should not require compensation information as a requirement for ETCs. See Blackfoot's above answers about required Federal filings. There is already significant evidence provided in

annual compliance filings, and ETCs are subject to rigorous Federal audits to prevent waste, fraud, and abuse.

- Are there any other administrative regulations in [Mont. Admin. R. 38.5.3201-3230](#) that should be eliminated or modified because they are antiquated?

Answer: Mont. Admin. R. 38.5.3230 should be eliminated because the FCC preempted states where programs and eligibility for Lifeline are concerned in its [Third Report and order, Further Report and Order, and Order on Reconsideration](#), released on April 27, 2016. WC Docket No. 11-42.

2. What opportunities exist for reforms to Montana law to improve ETC Services in Montana, as allowed by 45 U.S.C. § 254(f)? The Commission is interested in statutory reforms that might be proposed to the Energy and Telecommunications Interim Committee or during the 2019 Montana Legislative Session. The Commission seeks comment on the following issues:

- Should the Commission be permitted to waive its duty to certify ETC utilities, as found in Mont. Code Ann. § 69-3-840, and instead allow the FCC to assume jurisdiction for certification?

Answer: Yes. Since the USF program is a federal program, it makes sense for the FCC to certify ETCs in Montana. Requiring the Commission to certify ETCs has proven challenging because it is being forced to sign-off on a program over which it has no jurisdiction or control. Shifting ETC recertification to the FCC would relieve strained State resources and take ETC certification off the Commission's plate. However, doing so may require the Montana legislature to amend Mont. Code Ann. § 69-3-840 to clarify the Commission lacks jurisdiction to designate telecommunications carriers as ETCs.

- Should Montana repeal its Universal Service Fund statutes found in Mont. Code Ann. §§ 69-3-841 through -845, that establish authority to create a complementary Montana Universal Service Fund, but which has not been funded nor created since the statutes were enacted in 1997? In the alternative, should the statute be amended to modernize the language authorizing the state USF and, if so, how?

Answer: No. Although the State of Montana does not presently have a State universal service fund, repealing these statutes ensures the option is off the table instead of preserving that option as a possibility in the future.

3. What opportunities exist for reforming Federal policy, either by statute or regulation, to improve ETC Services in Montana? The Commission seeks comment on the following issues:

- Do ETC Program subsidies, by reducing incentives to innovate and economize, actually inhibit effective buildout of rural, insular, or high-cost areas, in contrast to the stated ETC principles in 47 U.S.C. § 254(b)?

Answer: No. The question pre-supposes all ETC program subsidies reduce incentives to innovate and economize. They do not. In fact, A-CAM incents providers to use innovative and economic technologies to meet strict build-out requirements. For example, Blackfoot is currently exploring deploying fixed wireless technology, as opposed to fiber-optics, in portions of its ILEC territory to meet its FCC broadband building requirements.

- What objective evidence exists that subsidies, as opposed to paying the true marginal cost of services, are actually necessary for consumers to subscribe in high-cost areas? On average, what would the additional customer cost amount to?

Answer: Whether federal USF provides benefits to high-cost areas is an issue that is outside the scope of this inquiry and beyond the Commission’s jurisdiction. If the Commission questions the benefits of USF, it has the ability to submit comments to the FCC as an interested party. The FCC currently has an open proceeding looking into a variety of USF issues.³⁵ Moreover, under 47 USC section 254, the price for communication and information services in rural areas has to be “reasonably comparable” to prices in urban areas. If Montana telecommunications carriers did not receive Universal Service support their rates would have to increase dramatically and, therefore, would violate the “reasonably comparable” price obligation in section 254 of the Act. Beyond this, lack of Universal Service support would likely cause carriers to stop serving certain customers and to stop expanding and improving their broadband networks. As reported by news outlets throughout our State, in 2017 Verizon informed hundreds of customers in rural Montana communities that Verizon would no longer provide them service.³⁶ Verizon reversed course, but only after receiving significant political pressure from Montana Senator John Tester and others to do so.³⁷

- Later this month, the FCC is scheduled to vote to issue notices which would seek comment on ending a national designation program for certain ETCs, requiring facilities-based service as a prerequisite

³⁵ Connect America Fund WC Docket No. 10-90, Telecommunications Carriers Eligible for Universal Service Support WC Docket No. 09-197, and Lifeline and Link Up Reform and Modernization WC Docket No. 11-42.

³⁶ See e.g., Erickson, David, ‘Plan wasn’t so unlimited’: Verizon terminates 100s of rural Montanans’ contracts, (Missoulian, Sept. 15, 2017, at: http://mtstandard.com/news/local/plan-was-n-t-so-unlimited-verizon-terminates-s-of-rural/article_52e5149e-a6ef-5821-adb4-6a37a90fe76f.html).

³⁷ Tester, John, Letter to Verizon’s CEO Mr. Lowell McAdam (Sept. 14, 2017, at: <https://www.testersenate.gov/files/Letters/2017-09-14%20Tester%20Verizon%20Montana%20Contract%20Letter.pdf> and https://www.testersenate.gov/?p=press_release&id=5553).

to the receipt of Lifeline, propose a budget cap for the Lifeline program, and collaborating with States on verification of Lifeline eligibility, among other things. Should the Commission submit comments to the FCC regarding these proposals for reform? *Fourth Report and Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry*, Consolidated Docket Nos. 17-287, 11-12, 09-147 (FCC Oct. 26, 2017).

Answer: No. The FCC has taken a number of steps to reduce waste, fraud, and abuse in the Lifeline Program to include a new National Verifier system. The National Verifier process in essence shifts the burden for verifications from carriers to USAC. The collaboration contemplated by the FCC will most likely require DPHHS and Tribal involvement for access to databases to the extent access is desired. With that said, it is Blackfoot's understanding that it is unlikely the FCC will agree to expend limited resources to connect to Montana databases due to the relatively small number of Lifeline consumers in our state. The small number of consumers is the reason Montana was selected as a first wave state for the launch of the National Verifier. With that in mind, Blackfoot believes the Commission's valuable resources should not be used to comment on these proposals.

- Are there market-based alternatives, or technologies other than fiber-based broadband, that more effectively accomplish the goals of ETC Programs as stated in 47 U.S.C. §254(b)?

Answer: Yes. Blackfoot uses several approaches to deliver services effectively and efficiently that do not necessarily include fiber to the premise. For example, Blackfoot uses more advanced copper technologies, such as VDSL2 and bonding to achieve higher speeds. Additionally, copper-based technologies are constantly being improved, such as G.Fast, to leverage the millions of miles of copper still in service. Blackfoot also deploys robust fixed and multi-point wireless solutions where geography allows. All of these options benefit from fiber connectivity to a distribution point but provide more cost effective last mile connectivity. As the copper plant ages, direct fiber connectivity from the fiber-fed distribution point then becomes less burdensome. In addition, Blackfoot's CLEC subsidiary has hundreds of fixed wireless customers. Blackfoot is currently exploring opportunities to deploy its fixed wireless technology solutions in its ILEC areas.

- Should ETC Program funds be expended based on a priority of higher cost areas over lower cost areas?

Answer: No. The USF program is a federal program, and the Commission does not have the authority to make changes to a federal program.

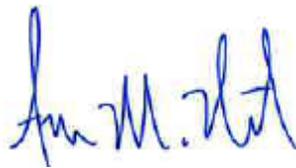
IV. CONCLUSION

Montana is largely a rural state with vast amounts of land and sparse populations. There are approximately two customers every square mile in Blackfoot's service area. Add a rocky and mountainous terrain to the equation and you have a service territory where deploying affordable, high-speed communications facilities is extremely expensive and impractical without USF funding. It is for this reason that the USF programs have universal support in all branches of government.

Suffice it to say: the services Blackfoot provides its rural communities are necessary to help those communities not only survive, but thrive. Whether supporting Montana's farmers and ranchers, schools, and libraries, hospitals, or Montana's numerous rural residents and businesses, Blackfoot has long provided its customers affordable, high-speed service. Respectfully, the Commission's support of Montana ETCs and the USF programs that help sustain their operations will help ensure Montana's rural residents, businesses, schools, hospitals, and libraries continue to thrive and receive transformational communication services.

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