

### C. Who Is Eligible for Support

111. For purposes of Section 254(h)(2), schools and libraries have definitions identical to those in Section 254(h)(1), discussed at part V.B.3., above. Congress also intended to benefit "all . . . health care providers," as defined in Section 254(h)(5)(B),<sup>226</sup> not just rural health care providers. We invite interested parties to comment and ask the Joint Board's recommendation regarding this interpretation.

### VI. Other Universal Service Support Mechanisms

112. The 1996 Act states that any federal universal service support provided to eligible carriers "should be explicit" and should be recovered from all telecommunications carriers that provide interstate telecommunications service "on an equitable and nondiscriminatory basis."<sup>227</sup> Currently, approximately 25 percent of the unseparated cost of incumbent LECs' subscriber loops (the lines connecting subscribers to local telephone company central offices) is allocated to the interstate jurisdiction. These carriers recover a significant portion of their loop costs allocated to the interstate jurisdiction directly from subscribers through flat monthly subscriber line charges (SLCs), but the Commission's rules impose caps on the SLC rate at \$3.50 per month for residential and single-line business users and \$6.00 per month for multi-line business users.<sup>228</sup> The incumbent LECs' remaining interstate allocated loop costs are currently recovered through a per-minute carrier common line (CCL) charge paid by IXCs, and ultimately by subscribers in the form of increased interstate long distance rates.

113. Many interested persons have argued that all costs associated with facilities dedicated to the use of a single subscriber should be recovered through a flat, non-traffic sensitive charge assessed on end users.<sup>229</sup> They contend that the existing CCL charge artificially raises rates for interstate long distance usage and distorts competitive incentives in the local exchange marketplace. Moreover, the imposition of per-minute charges on one class of service -- interstate interexchange long distance -- to reduce flat rates for end users

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<sup>226</sup> Id. § 254(h)(2)(A). See discussion supra at part V.C.3.

<sup>227</sup> 1996 Act sec. 101(a), § 254 (d), (e).

<sup>228</sup> 47 C.F.R. §§ 69.104(c)-(e), 69.203(a). If the interstate allocation of common line costs in a study area is lower than the SLC cap, the lower number is used.

<sup>229</sup> See Com. Car. Bur., FCC, Preparation for Addressing Universal Service Issues: A Review of Current Interstate Support Mechanisms 90-97 (1996); cf. Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers; Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers, Notice of Proposed Rulemaking, CC Docket Nos. 95-185, 94-54, FCC 95-505, para. 43 (rel. Jan. 11, 1996), summarized in 61 Fed. Reg. 3644 (1996).

(with the goal of increasing telephone subscribership) appears to constitute a universal service support flow. High-volume interstate long distance customers contribute more than the full cost of their subscriber lines, while low-volume customers contribute less. The Federal-State Joint Board that recommended a mandatory cap on the SLCs emphasized that this limitation was designed to support universal service.<sup>230</sup> The current CCL charge appears to be inconsistent with the directives of the 1996 Act that universal service support flows "be explicit" and be recovered on a "nondiscriminatory basis" from all telecommunications carriers providing interstate telecommunications service.<sup>231</sup> The Commission and a Federal-State Joint Board have found in the past, that increased flat rate recovery of LECs' subscriber loop costs has substantially stimulated demand for interstate switched services, and has produced major economic efficiency gains with minimal impact on subscribership.<sup>232</sup> At the same time, recovery of the full interstate allocation of common line costs directly from end-users might cause the flat monthly rates paid by certain subscribers to exceed acceptable levels, and could have an adverse impact on telephone subscribership.

114. In the mid-1980s, we referred to a Federal-State Joint Board questions relating to the recovery of interstate-allocated subscriber loop costs.<sup>233</sup> We do so again here. We now seek comment on whether to continue the existing subsidy so as to preserve reduced end user common line charges, or to eliminate or reduce the subscriber loop portion of the interstate CCL charge and, instead, permit LECs to recover these costs from end users.<sup>234</sup> We invite parties to comment on whether the existing method for recovery of common line

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<sup>230</sup> MTS and WATS Market Structure; Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, Recommended Decision and Order, 2 FCC Rcd 2324 (1987) (1987 Recommended Decision); 1984 Recommended Decision.

<sup>231</sup> 1996 Act sec. 101(a), § 254 (d), (e).

<sup>232</sup> 1987 Report and Order, at 2954, 2957; see also Jerry Hausman et al., The Effects of the Breakup of AT&T on Telephone Penetration in the United States, 83 Am. Econ. Ass'n Papers & Proc. 178, 183 (1993).

<sup>233</sup> See 1985 Lifeline Order (adopting, with minor modifications, the Joint Board recommendations issued in 1984 Recommended Decision); 1987 Report and Order (adopting, with minor modifications, the Joint Board recommendations issued in 1987 Recommended Decision).

<sup>234</sup> The LECs' interstate CCL charge currently also recovers revenues associated with the provision of payphone service. Pursuant to the 1996 Act, within nine months after the date of its enactment, the Commission will initiate a proceeding to discontinue this element of the CCL charge and replace it with a per-call compensation system for recovering payphone costs. 1996 Act sec. 151(a), § 276(b)(1)(A), (B). The CCL charge also recovers common line long-term support (LTS) payments, which are discussed in the following paragraph.

costs allocated to the interstate jurisdiction comports with economic efficiency and the specific mandates of the 1996 Act. We also seek comment on the extent to which increases in SLCs would reduce telephone subscribership, if at all, and the effect on subscribership across different income levels and telecommunications consumption patterns. We seek comment on the level of explicit universal service support that would be required to avoid unacceptable harm to subscribership under such a scenario, and the extent to which such support could be provided through the targeted support mechanisms to low-income customers and customers in rural, insular, or high-cost areas discussed above.<sup>235</sup> In the alternative, we seek comment on whether all or a portion of the current level of support for subscriber loop rates should be retained but restructured, consistent with the mandate of the 1996 Act, to "be explicit" and to be funded in a "nondiscriminatory" manner.<sup>236</sup> A combination of these approaches is also possible: for example, the caps on interstate SLCs could be increased gradually but not eliminated, with the balance recovered from the universal service support fund proposed below. We also seek comment on whether eligibility for these support mechanisms must, or should, be limited to state-certified eligible carriers, under the 1996 Act.

115. The CCL charge assessed by larger incumbent LECs also recovers revenues associated with long-term support (LTS) payments remitted to the National Exchange Carrier Association, Inc. (NECA).<sup>237</sup> Until 1989, the Commission's rules required all LECs to participate in a nationwide averaged common line pool. That mandatory pooling arrangement was replaced in 1989 by the current system, which permits LECs to leave the pool and set their CCL rates based on their own interstate separated costs of subscriber loops. The LECs that withdrew from the common line pool are required to remit LTS payments to NECA, which distributes the LTS payments to LECs remaining in the nationwide common line pool. With the introduction of price cap regulation, the uniform CCL rate assessed by LECs remaining in the pool is based on the average CCL rate charged by price cap LECs.<sup>238</sup> LTS payments, which directly increase interstate access charges assessed by some LECs so as to reduce charges assessed by other LECs, are an identifiable support flow in the existing interstate access charge system. We propose to eliminate the recovery of LTS revenues through incumbent LECs' interstate CCL charges, and we seek comment on whether the LTS system should be eliminated or restructured in an explicit and nondiscriminatory manner, consistent with the universal service support mechanisms described elsewhere in this Notice and with the principles espoused in the 1996 Act. We also seek comment on whether the principles governing our deliberations in this proceeding

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<sup>235</sup> See *supra* part III.B., C.

<sup>236</sup> 1996 Act sec 101(a), § 254(d), (e).

<sup>237</sup> 47 C.F.R. §§ 69.603(e), 69.612.

<sup>238</sup> Com. Car. Bur., FCC, Preparation for Addressing Universal Service Issues: A Review of Current Interstate Support Mechanisms 71-77 (1996).

permit, or even require, a transition period for carriers that receive LTS to adjust to any changes in the LTS system or rate structure for recovering loop costs allocated to the interstate jurisdiction. We seek a Joint Board recommendation on all of these issues.

## **VII. Administration of Support Mechanisms**

### **A. Goals and Principles**

116. The 1996 Act states that "[a]ll providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service"<sup>239</sup> through "specific, predictable and sufficient Federal and State mechanisms."<sup>240</sup> To accomplish this, the Act stipulates that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."<sup>241</sup> It further stipulates that "[e]very telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State."<sup>242</sup>

117. In view of these provisions, we seek comment on how financial responsibility should be divided between interstate telecommunications carriers and intrastate telecommunications carriers for the costs associated with the universal service support mechanisms authorized under Section 254. We invite commenters to discuss possible approaches for allocating this financial obligation, detailing the advantages and disadvantages of each approach. We ask, in particular, that interested parties address the question of whether passage of the 1996 Act should change existing assumptions about the sources of universal service support. Finally, we request that the Joint Board in this proceeding recommend an appropriate basis, with reference to the 1996 Act, upon which to assign responsibility between the interstate and intrastate jurisdictions for contributions needed to fund support for universal service.

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<sup>239</sup> 1996 Act sec. 101(a), § 254(b)(4).

<sup>240</sup> *Id.* § 254(b)(5).

<sup>241</sup> *Id.* § 254(d).

<sup>242</sup> *Id.* § 254(f).

## B. Administration

### 1. Who Should Contribute

118. Under the 1996 Act, we must ensure that telecommunications carriers' contributions that fund universal service support are collected "on an equitable and nondiscriminatory basis" using "specific, predictable, and sufficient mechanisms."<sup>243</sup> The Act states that "[a]ll providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service."<sup>244</sup> To fulfill this obligation, Section 254(d) requires that "[e]very telecommunications carrier that provides interstate telecommunications services"<sup>245</sup> contribute to "preserve and advance universal service"<sup>246</sup> and that "[a]ny other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires."<sup>247</sup> The Act defines the term "telecommunications carrier" as "any provider of telecommunications services," and the term "telecommunications service" as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used."<sup>248</sup> In addition, the Act defines "telecommunications" as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received."<sup>249</sup>

119. We seek comments that identify which service providers fall within the scope of the term "telecommunications carrier[s] that provide[] interstate telecommunications services."<sup>250</sup> We also seek comment on whether support obligations associated with universal service mechanisms should extend only to telecommunications carriers providing interstate telecommunications services or whether we should impose universal service support obligations more broadly, as Section 254(d) of the Act authorizes us to do. Under Section

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<sup>243</sup> Id. § 254(d).

<sup>244</sup> Id. § 254(b)(4).

<sup>245</sup> Id. § 254(d).

<sup>246</sup> Id.

<sup>247</sup> Id.

<sup>248</sup> Id. § 153(49), (51) (emphasis added).

<sup>249</sup> Id. § 153(48). For example, the switched message and private line services offered by LECs and IXC provide "telecommunications" to end users.

<sup>250</sup> See id. § 254(d).

254(d), universal service support obligations could be imposed upon "other provider[s] of interstate telecommunications," which, pursuant to the definition of "telecommunications" in Section 3 of the 1996 Act, would include entities that provide interstate "transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received."<sup>251</sup> We seek comment and Joint Board recommendations on whether "the public interest . . . requires" that we extend support obligations to "[a]ny other provider[s] of interstate telecommunications,"<sup>252</sup> and if so, what categories of providers, other than telecommunications carriers should be so obligated.

120. Section 254(d) authorizes the Commission to "exempt a carrier or class of carriers from [the obligation to make contributions] if the carrier's telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be de minimis."<sup>253</sup> The Joint Explanatory Statement of the Committee of Conference clarifies that such exemption should be given "only . . . in cases where the administrative cost of collecting contributions from a carrier or carriers would exceed the contribution that carrier would otherwise have to make under the formula for contributions selected by the Commission."<sup>254</sup> We seek comment on whether we should establish rules of general applicability for exempting very small telecommunications providers, and if so, what the basis should be for determining that the administrative cost of collecting support would exceed a carrier's potential contribution. Within those parameters, we also specifically seek comment on measures to avoid significant economic harm to small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act.<sup>255</sup> In its Recommended Decision, we request that the Joint Board consider all of these issues related to defining the contributors to universal service support.

## 2. How Should Contributions Be Assessed

121. Section 254(d) requires that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."<sup>256</sup> Furthermore, in evaluating different

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<sup>251</sup> Id.

<sup>252</sup> Id. § 254(d).

<sup>253</sup> Id.

<sup>254</sup> S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. 131 (1996).

<sup>255</sup> 5 U.S.C. § 601(3)

<sup>256</sup> 1996 Act sec. 101 a), § 254(d).

approaches to collecting contributions, we must ensure that "[a]ll providers of telecommunications services make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service."<sup>257</sup>

122. Contributions Based on Gross Revenues. One potential approach might be to adopt the mechanism used for the approximately \$30 million-per-year Telecommunications Relay Services (TRS) program. TRS provides "a telephone transmission service that allows persons with hearing or speech disabilities to communicate by telephone in a manner functionally equivalent to the ability of persons without such disabilities."<sup>258</sup> Each contributor's TRS payment is based on a pro rata share of its gross interstate revenues.<sup>259</sup>

123. Contributions Based on Revenues Net of Payments to Other Carriers. Alternatively, we could consider the mechanism employed for the assessment and collection of regulatory fees to recover part of the cost of the Commission's regulatory activities. This mechanism was established in our Regulatory Fees Order,<sup>260</sup> where we evaluated the advantages and disadvantages of alternative mechanisms for collecting Commission fees on a per line, per minute of use, and per dollars of revenue basis. That Order directed that fees be assessed based on gross interstate revenues net of payments made to other telecommunications carriers

124. Contributions Based on Per-Line or Per-Minute Units. We also could adopt a mechanism based on per-line or per-minute charges. These approaches, however, would require the Commission to adopt and administer "equivalency ratios" for calculating the contributions owed by providers of services that were not sold on a per-line or per-minute basis into their respective per-line or per-minute units. In addition, these approaches may favor certain services or service providers over others.

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<sup>257</sup> Id. § 254(b)(4).

<sup>258</sup> 47 U.S.C. § 225(a)(3). TRS facilities have specialized equipment and staff who relay conversations between persons using text telephones and persons using traditional telephones.

<sup>259</sup> Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, Third Report and Order, 8 FCC Rcd 5300 (1993).

<sup>260</sup> Assessment and Collection of Regulatory Fees for Fiscal Year 1995, Price Cap Treatment of Regulatory Fees Imposed by Section 9 of the Act, Report and Order, 10 FCC Rcd 13512 (1995) (Regulatory Fees Order).

125. We invite comment on the relative merits of these approaches and the extent to which they do or do not satisfy the requirements of the Act.<sup>261</sup> We seek comment on whether, for purposes of funding federal universal service support mechanisms, we should base contributions from interstate carriers (and, possibly, from other interstate service providers) on both their interstate and intrastate revenues or only on their interstate revenues only. If commenters propose that contributions should be based on interstate revenues only, we ask for proposals on how to determine the interstate revenues for the many and varied telecommunications carriers and telecommunications service providers that are not subject to our jurisdictional separations rules and, in some cases, may not have a clear basis for delineating interstate and intrastate services. In particular, we ask for comment on the practicality of the approach used for the TRS fund.<sup>262</sup>

126. We also invite commenters to suggest alternative methodologies for calculating a carrier's or service provider's contribution to universal service support. The comments should address which method would be the most easily administered and competitively neutral in its effect upon contributing carriers and service providers. In addition, commenters should address how these methods could be adapted if we were to require non-carrier providers of telecommunications services to make contributions to the universal service funds. We ask the Joint Board to address these issues in its Recommended Decision.

### 3. Who Should Administer

127. Section 254(b)(4) of the 1996 Act states that "[a]ll providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service."<sup>263</sup> Moreover, Section 254(d) requires that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and

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<sup>261</sup> In using the TRS program and our Regulatory Fees Order as potential models, we are only proposing their methodologies. We are not suggesting that the range of contributors providing universal support should be limited to the contributors to those programs. Questions regarding who should contribute to universal fund support are discussed above in part VIII.B.1. of this Notice.

<sup>262</sup> The TRS work sheet instructs carriers to, wherever possible, calculate the percentage of total revenues that are interstate by using information from their books of accounts and other internal data reporting systems. Carriers that cannot calculate a percentage from their books or from internal data may elect to rely on special studies to determine interstate percentages.

<sup>263</sup> 1996 Act sec. 101(a), § 254 (b)(4)

advance universal service."<sup>264</sup> The rules for assessing support obligations discussed above not only must conform to these provisions, but also must be administered fairly, consistently, and efficiently. We seek comment on the best approach to administer the universal service mechanisms fairly, consistently, and efficiently.

128. One way to administer the fund would be through a non-governmental fund administrator. We believe the fund should be administered by the candidate who can administer it in the most efficient, fair, and competitively neutral manner. In addition, considering the large number of potential contributors and recipients of universal service funds under Section 254, it would appear that administration of the funds will require large-scale information processing and data base capabilities. Moreover, the administrator should have the ability to apply eligibility criteria consistently, ensuring that all carriers eligible for support, but no ineligible carriers, are properly compensated by the support mechanisms. Finally, the administrator should assure that all entities required to contribute to the fund do so, and in the appropriate amounts.

129. We ask that commenters discuss these criteria and any others we might use to assess qualifications of any candidates to administer the funds, for how long an administrator should be appointed, and any other matters related to the selection and appointment of a fund administrator. We also invite parties to suggest the most efficient and least costly methods to accomplish the administrative tasks associated with fund administration.

130. Rather than appoint a non-governmental fund administrator, we could have the funds collected and distributed by state public utility commissions. Under this approach, individual state commissions or groups of state commissions would be responsible for administering the funds' collection and distribution, operating under plans approved by the Commission. They might delegate the administration of the fund to a governing board composed of representatives from the state commissions, the fund contributors, and the fund recipients. This board could also function as a central clearinghouse to the extent collection and distribution issues extended beyond the boundaries of individual states. We request comment on this alternative approach and on what provisions should be incorporated in any plan that the Commission approves for administering the funds under this option. We also invite proposals for other means of administering support mechanisms.

131. Pursuant to the 1996 Act's principle that support for universal service should be "predictable,"<sup>265</sup> we seek comment estimating the cost of administration using either of the two approaches that we have discussed. Commenters proposing an alternative method should also identify the costs of administration associated

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<sup>264</sup> Id. § 254(d).

<sup>265</sup> Id. § 254(b)(5).

with their suggested method. Finally, we request that the Joint Board address these issues regarding fund administration in its Recommended Decision.

### VIII. Composition of the Joint Board

132. Under Section 254(a) of the 1996 Act, the Joint Board in this proceeding must consist of eight members: three Commissioners from this Commission; four State Commissioners nominated by the National Association of Regulatory Utility Commissioners (NARUC); and one State-appointed utility consumer advocate nominated by the National Association of State Utility Commissioners.<sup>266</sup> Section 410(c) also specifies that "the Chairman of the Commission or another Commissioner designated by the Commission, shall serve as Chairman of the Joint Board."<sup>267</sup>

133. In accordance with these provisions, the three Commissioners from this Commission are the Honorable Reed E. Hundt, the Honorable Andrew C. Barrett, and the Honorable Susan Ness. The four Commissioner nominated by NARUC are the Honorable the Honorable Julia L. Johnson of the Florida Public Service Commission, the Honorable Kenneth McClure of the Missouri Public Service Commission, the Honorable Sharon L. Nelson of the Washington Utilities and Transportation Commission, and the Honorable Laska Schoenfelder of the South Dakota Public Utilities Commission,<sup>268</sup> The utility consumer advocate nominated by NASUCA is Martha S. Hogerty, Public Counsel for the State of Missouri.<sup>269</sup> The Honorable Reed E. Hundt shall serve as Chairman of the Joint Board.

### IX. Procedural Matters

#### A. Ex Parte

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<sup>266</sup> *Id.* § 254(a).

<sup>267</sup> 47 U.S.C. § 410(c).

<sup>268</sup> The National Association of Regulatory Utility Commissioners (NARUC) nominated Ms. Johnson, Mr. McClure, Ms. Nelson, and Ms. Schoenfelder to serve on the Federal-State Joint Board. Letter from James Bradford Ramsay, Deputy Assistant General Counsel, NARUC, to Mr. William F. Caton, Secretary, Federal Communications Commission, February 28, 1996.

<sup>269</sup> Nominated pursuant to 1996 Act sec. 101, § 254(a)(1), by the National Association of State Utility Consumer Advocates (NASUCA). Letter from Debra Berlyn, Executive Director, NASUCA, to The Honorable Reed E. Hundt, Chairman, Federal Communications Commission, February 26, 1996.

134. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.<sup>270</sup>

## **B. Regulatory Flexibility Analysis**

135. Pursuant to Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of the Notice, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. § 601 et seq. (1981).

136. Reason for Action. The Telecommunications Act of 1996 requires the Commission to initiate a rulemaking to define the services generally supported by Federal universal service support mechanisms. This Notice addresses issues of the services that should receive universal service support with respect to elementary and secondary schools and classrooms, libraries, health care providers, as well as universal support service mechanisms. Issues raised in this Notice will be referred to a Federal-State Joint Board.

137. Objectives. To propose rules to implement Sections 101 and 102 of the Telecommunications Act of 1996. We also desire to adopt rules that will be easily interpreted and readily applicable and, whenever possible, minimize the regulatory burden on affected parties.

138. Legal Basis. Action as proposed for this rulemaking is contained in Sections 101 and 102 of the Telecommunications Act of 1996 (to be codified at 47 U.S.C. §§ 254 and 214(e), respectively).

139. Description, potential impact and number of small entities affected. Until we receive more data, we are unable to estimate the number of small telecommunications service providers that would be affected by any of the proposals discussed in the Notice. We have, however, attempted to reduce the administrative burdens and cost of compliance for small telecommunications service providers.

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<sup>270</sup> See generally 47 C.F.R. §§ 1.1202, 1.1203, 1.1206(a).

140. Reporting, record keeping and other compliance requirements. The proposals under consideration in this Notice do not include the reporting and record keeping requirements of telecommunications service providers.

141. Federal rules which overlap, duplicate, or conflict with this rule. None.

142. Any significant alternatives minimizing impact on small entities and consistent with stated objectives. Wherever possible, the Notice proposes general rules, or alternative rules to reduce the administrative burden and cost of compliance for small telecommunications service providers. In addition, the Notice invites comment on exemptions from the proposed rules for small telecommunications companies. Finally, the Notice seeks comment on measures to avoid significant economic impact on small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act.

### C. Comment Dates

143. We invite comment on the issues and questions set forth above. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules,<sup>271</sup> interested parties may file comments on or before April 8, 1996, and reply comments on or before May 3, 1996. Comments and Reply Comments will be limited to 25 pages apiece, not including appendices of factual material. To file formally in this proceeding, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. Interested parties should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Parties must also serve comments on the Federal-State Joint Board in accordance with the service list. Parties should send one copy of any documents filed in this docket to the Commission's copy contractor, International Transcription Service, Room 640, 1990 M Street, N.W., Washington, D.C. 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

144. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Ernestine Creech, Common Carrier Bureau, Accounting and Audits Division, 2000 L Street, N.W., Suite 257, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using WordPerfect 5.1 for Windows software. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comment) and date of submission. The diskette should be accompanied by a cover letter.

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<sup>271</sup> 47 C.F.R. §§ 1.415-1.419.

## X. Ordering Clauses

145. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4(i), 4(j), and 403, of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), and 403, and Sections 101 and 102 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. § 254 and 47 U.S.C. § 214(e), respectively), that NOTICE IS HEREBY GIVEN of proposed amendments to Parts 36 and 69 of the Commission's Rules, 47 C.F.R. Parts 36 and 69, as described in this Notice of Proposed Rulemaking.

146. IT IS FURTHER ORDERED that, pursuant to Section 410(c) of the Communications Act of 1934, 47 U.S.C. § 410(c), and Sections 101 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. § 254), that the Federal-State Joint Board on Universal Service be convened.

147. IT IS FURTHER ORDERED that, pursuant to Section 410(c) of the Communications Act of 1934, 47 U.S.C. § 410(c), and Sections 101 and 102 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. § 254 and 47 U.S.C. § 214(e), respectively), the proposals set forth in the Notice of Proposed Rulemaking are hereby referred to the Federal-State Joint Board established in this proceeding for the preparation of a recommended decision within nine months from enactment of the Telecommunications Act of 1996.

148. IT IS FURTHER ORDERED, pursuant to Section 410(c) of the Communications Act of 1934, 47 U.S.C. §410(c), and Sections 101 and 102 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. § 254 and 47 U.S.C. § 214(e), respectively), that the Honorable Reed E. Hundt, the Honorable Andrew C. Barrett, the Honorable Susan Ness, the Honorable Julia L. Johnson of the Florida Public Service Commission, the Honorable Kenneth McClure of the Missouri Public Service Commission, the Honorable Sharon L. Nelson of the Washington Utilities and Transportation Commission, and the Honorable Laska Schoenfelder of the South Dakota Public Utilities Commission,<sup>272</sup> and Martha S. Hogerty,<sup>273</sup> Public Counsel for the

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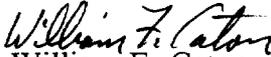
State of Missouri are appointed to, and the Honorable Reed E. Hundt shall serve as Chairman of, the Federal-State Joint Board.

149. IT IS FURTHER ORDERED, that a copy of all filings in this proceeding shall be served on each of the appointees and staff personnel on the attached service list.

150. IT IS FURTHER ORDERED that, pursuant to Sections 410(c), 154(i) and 154(j) of the Communications Act of 1934, 47 U.S.C. § 410(c), § 154(i) and § 154(j), and Sections 101 and 102 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. § 254 and 47 U.S.C. § 214(e), respectively), the material described in part III.B. of this Notice of Proposed Rulemaking and Order Establishing a Joint Board IS INCORPORATED into the record in this proceeding.

151. IT IS FURTHER ORDERED that, the Secretary shall send a copy of this NOTICE OF PROPOSED RULEMAKING, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601 et seq. (1981).

FEDERAL COMMUNICATIONS COMMISSION

  
William F. Caton  
Acting Secretary

**Attachment: Service List**

The Honorable Reed E. Hundt, Chairman  
Federal Communications Commission  
1919 M Street, N.W. -- Room 814  
Washington, D.C. 20554

The Honorable Andrew C. Barrett, Commissioner  
Federal Communications Commission  
1919 M Street, N.W. -- Room 826  
Washington, D.C. 20554

The Honorable Susan Ness, Commissioner  
Federal Communications Commission  
1919 M Street, N.W. -- Room 832  
Washington, D.C. 20554

The Honorable Julia Johnson, Commissioner  
Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

The Honorable Kenneth McClure, Vice Chairman  
Missouri Public Service Commission  
301 W. High Street, Suite 530  
Jefferson City, MO 65102

The Honorable Sharon L. Nelson, Chairman  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504 7250

The Honorable Laska Schoenfelder, Commissioner  
South Dakota Public Utilities Commission  
500 E. Capital Avenue  
Pierre, SD 57501

Martha S. Hogerty  
Public Counsel for the State of Missouri  
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Jefferson City, MO 65102

Deborah Dupont, Federal Staff Chair  
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Paul E. Pederson, State Staff Chair  
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Idaho Public Utilities Commission  
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Larry Povich  
Federal Communications Commission  
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Washington, D.C. 20554

**SEPARATE STATEMENT  
OF  
COMMISSIONER ANDREW C. BARRETT**

RE: *In the Matter of Federal-State Joint Board on Universal Service*

By this action, the Commission fulfills in part the mandate of the Telecommunications Act of 1996 ("1996 Act") to, within a month of enactment, "institute and refer to a Federal-State Joint Board . . . a proceeding to recommend changes" to any of its universal service policies and rules, including the definition of the services supported by Federal universal service support mechanisms.<sup>1</sup> Specifically, in the Notice of Proposed Rulemaking and Order Establishing Joint Board ("Notice"), the Commission commences a proceeding to (1) define the services that will be supported by Federal universal service support mechanisms; (2) define those support mechanisms; (3) and otherwise recommend changes to regulations to implement the universal service directives contained in Section 254 of the 1996 Act. These issues are referred to a new Federal-State Joint Board for recommendations.

Clearly, by enacting the 1996 Act, the Congress recognized several complex, consequential changes in the communications industry. Rapid technological advancement and the introduction of competition in various market segments, for example, have rendered rules, policies, and regulatory frameworks that were developed in an era of communications monopolies untenable. Indeed, such changes are fully acknowledged and reflected in the new universal service provisions of the 1996 Act. The 1996 Act requires the Commission to ensure that the definition of services supported by universal service support mechanisms and those mechanisms themselves evolve as advances in telecommunications continue to occur.

As a member of the Joint Board and of this Commission, I look forward to carefully reviewing interested parties' submissions in response to this Notice. In particular, I hope parties will, while addressing directly the inquiries and issues contained in the Notice, proffer comment and information concerning the costs of specific services, as those services are proposed to be made part of a universal service definition. As context, current payments made by interexchange carriers to the Universal Service Fund ("USF") total approximately \$735 million. While these amounts are based upon existing procedures that account for above-average local loop costs, I am concerned going-forward that the contributions needed to support new universal service policies could be formidable.

Furthermore, parties should address how the Joint Board and Commission can develop competitively-neutral and technologically-neutral universal service rules. As we proceed into a new era of communications competition, codified into law by the 1996 Act, I am concerned about our policies constraining new market entrants to the advantage of

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<sup>1</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, 71 (1996) (to be codified at 47 U.S.C. § 254(a)(1)).

established market players and, by the same token, placing undue burdens upon established firms to foster competition. The 1996 Act, however, requires that: "All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service."<sup>2</sup>

In closing, I thank Chairman Reed Hundt for the appointment to the Federal-State Joint Board on Universal Service and I look forward to the challenges in the coming months. I commend the Commission staff for their tremendous efforts to help us meet our statutory obligations. Your efforts do not go unnoticed.

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2      110 Stat. at 72 (to be codified at 47 U.S.C. § 254(b)(4)).