

ORIGINAL

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

RECEIVED

APR 12 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

DOCKET FILE COPY ORIGINAL

COMMENTS OF WESTERN WIRELESS CORPORATION

Dated: April 12, 1996

Gene DeJordy, Esq.
Christopher Johnson
Western Wireless Corporation
330 120th Ave., NE - Suite 200
Bellevue, Washington 98005
206-451-8428 (tel)
206-450-7795 (fax)

No. of Copies rec'd
List ABCDE

0211

SUMMARY

Western Wireless strongly supports the Commission's goal to adopt universal service rules that are competitively and technologically neutral. As one of the largest providers of wireless telecommunications services to consumers in rural and high-cost areas, Western Wireless is uniquely-suited to provide "universal service" to consumers located in these areas. Today, however, absent a special arrangement with the local exchange carriers "LECs"), Western Wireless is effectively precluded from providing "universal service," notwithstanding the cost-efficiency and public safety value of wireless technologies to serve the communications needs of consumers in rural, insular, and high-cost areas.

Western Wireless agrees with the Commission that the proposed core services -- voice grade access to the public switched telecommunications network, touch tone, single party service, access to emergency services, and access to operator services -- meet the requirements of Section 254(c)(1) of the Telecommunications Act of 1996 without directly or indirectly discriminating against certain local service providers. While the Act allows the States to adopt a variation of the Joint Board/Commission definition of universal service, the Commission should make clear that any variation of the universal service definition adopted by the States must be consistent with a competitive universal service market and not directly or indirectly discriminate against wireless carriers.

Two classes of beneficiaries of universal service support are contemplated by the Act: residential consumers and schools, libraries, and health care providers in rural areas. Extending financial support to single-line business users or all users within rural, insular, and high cost areas would go beyond the purpose of universal service -- ensure that all consumers and certain not for profit entities have access to telecommunications services at just, reasonable, and affordable rates.

Western Wireless submits that the subsidy for universal service should be based upon the following formula:

$$\text{Universal Service Subsidy} = \text{Bid Price} \textit{ minus} \text{ Average Price}$$

For example, if a carrier's *bid price* is \$150 per household per month to serve consumers within a specified rural or high-cost area and the *average price* for comparable service to households in urban areas of the state is \$20, then the *universal service subsidy* would be \$130 per household per month. The carrier with the lowest bid price and who is the best qualified service provider based upon internal, external, and miscellaneous criteria would be the designated universal service provider. Other qualified carriers willing to provide service to consumers in rural or high cost areas should be able to do so and obtain the specified universal service subsidy.

Every carrier that provides interstate telecommunications services pursuant to Title II of the Communications Act of 1934 (*e.g.*, an interstate common carrier) should be required to contribute to the funding of universal service. A universal service assessment based upon a carrier's revenues net payment to other carriers would be the most competitively neutral funding mechanism.

TABLE OF CONTENTS

I.	INTRODUCTION	3
II.	UNIVERSAL SERVICE	4
	A. The Universal Service Principles of the Telecommunications Act of 1996 Will Be Furthered By Adopting Rules and Policies That Foster Competition in the Provisioning of Basic and Advanced Communications Services To Consumers Located in Rural, Insular, and High-Cost Areas.	4
	1. Access By All Consumers To High-Quality Basic and Advanced Telecommunications Service at Just, Reasonable, and Affordable Rates.	4
	2. Contribution and Funding Mechanisms Administered in an Equitable and Nondiscriminatory Manner.	5
	B. Today, Western Wireless and Other Wireless Carriers Are Capable of Providing Universal Service, But, Absent A Special Arrangement With a LEC, Are Unable To Do So.	5
	C. Western Wireless Agrees With the Commission That the Core Services Eligible for Universal Service Support Should Include Voice Grade Access, Touch-Tone, Single Party Service, and Access to Emergency and Operator Services.	7
	D. Support for Rural, Insular, and High-Cost Areas Should Be Limited to Residential Consumers and Schools, Libraries, and Health Care Providers.	9
	E. The Existing Universal Service Support Mechanisms Are Not Technology Neutral As Required by the Act and Therefore the Commission Should Start From Ground Zero in Establishing New Rules and Policies for the Funding of Universal Service.	10

III.	COMPUTING UNIVERSAL SERVICE SUBSIDY	11
	A. The Subsidy for Universal Service Should Be Based Upon A Carrier's Bid Price For Service To Rural, Insular, and High-Cost Areas Minus the Price Established For Basic Telecommunications Service To Consumers Located In These Areas.	11
	B. Average Price: The Cost of Basic Telephone Service In Rural, Insular, and High-Cost Areas Within A State Should Be No More Than the Average Cost for Comparable Service in Urban Areas Within A State.	12
	C. Bid Price: Qualified Service Providers Should Participate In A Competitive Bidding Process for the Right To Provide Universal Service To Consumers In Rural, Insular, and High-Cost Areas.	12
	D. The Lowest Bid Price Is But One Criteria For Selecting The Most Appropriate Carrier To Serve The Communications Needs Of Consumers In Rural, Insular, and High Cost Areas.	13
IV.	COMPETITIVELY-NEUTRAL UNIVERSAL SERVICE RULES	14
	A. All Carriers Capable of Providing the Core Services Included Within The Definition of Universal Service Should Be Eligible for Support.	14
	B. All Telecommunications Carriers Providing Interstate Telecommunications Services Pursuant to Title II of the Communications Act of 1934 Should Be Required to Contribute To the Funding of Universal Service.	15
	C. Contributions To the Preservation and Advancement of Universal Service Should Be Based Upon Revenues Net of Payments To Other Carriers.	16
V.	CONCLUSION	17

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

In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)

COMMENTS OF WESTERN WIRELESS CORPORATION

Western Wireless Corporation (“Western Wireless”) hereby submits its Comments on Commission’s Notice of Proposed Rulemaking and Order Establishing Joint Board in the above-captioned proceeding.¹ Western Wireless strongly supports the Commission’s goal “to adopt universal service rules that are competitively and technologically neutral so that our rules do not unreasonably advantage one particular technology or class of service provider over another technology or service provider ”²

As one of the largest providers of wireless telecommunications services to consumers in rural and high-cost areas, Western Wireless is uniquely-suited to provide “universal service” to consumers located in these areas. Today, however, absent a special arrangement with local exchange carriers (“LECs”), Western Wireless and other wireless carriers are effectively precluded from providing “universal service,” notwithstanding the cost-efficiency and public safety value of wireless technologies to serve the communications needs of consumers in rural, insular, and high-cost areas. To remedy this situation, the local exchange carriers’ (“LECs”) monopoly over “universal service” must come to an end and a competitive framework for “universal service,” both at the federal and

¹ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking and Order Establishing Joint Board, FCC 96-93 (released March 8, 1996) (*Universal Service NPRM*).

² *Id.* at para. 17.

state level, must be established. This, however, will not occur unless the Commission's rules and policies implementing the Telecommunications Act of 1996 ("Act") ensure that no barriers -- federal or state -- prohibit or have the effect of prohibiting a wireless carrier from providing universal service. For example, the definition of universal service must not include functions and features that are typically only available over a wireline network (*i.e.*, dial tone). Similarly, a requirement that a wireless carrier must obtain a certificate of public convenience and necessity from a State Commission in order to provide universal service would be an unlawful barrier to a wireless carrier's entry into this segment of the local market.

It is therefore imperative that the Commission adopt competitively and technologically neutral rules and policies implementing the directives of the Act -- rules and policies that promote competition in the universal service market and prohibit States from erecting any barriers to a wireless carrier's entry in the universal service market. The adoption of competitively and technologically neutral universal service rules also would be consistent with the pro-competitive policies of the Act. These policies provide for a competitive local services market and preempt State laws that prohibit or have the effect of prohibiting a carrier's provision of local service, including universal service. Clearly, the public interest would be served by not only allowing but also encouraging wireless carriers, like Western Wireless, which is uniquely-situated to provide universal service, to serve the telecommunications needs of consumers located in rural, insular, and high-cost areas.

In these Comments, Western Wireless demonstrates that consumers in rural, insular, and high-cost areas will benefit from a competitive "universal service" market. Today, consumers in rural, insular, and high-cost areas are captive customers of the LECs, which receive implicit and explicit subsidies for serving these customers. These subsidies are a barrier to competition in rural, insular,

and high-cost areas. Consequently, while consumers in many urban areas of the country have realized, or will soon realize, the benefits of a competitive local services market, consumers in rural, insular, and high-cost areas of the country are left looking on with envy and wondering whether they will ever realize the benefits of a competitive local services market. Western Wireless is hopeful that the rules and policies adopted in this proceeding will allow, for the first time, consumers in rural, insular, and high-cost areas to realize the benefits of a competitive telecommunications market.

I. INTRODUCTION

Western Wireless, through its wholly-owned subsidiaries, holds numerous licenses to provide non-wireline cellular radiotelephone service ("cellular"), personal communications service ("PCS"), specialized mobile radio ("SMR") service, and paging and radiotelephone service ("PARS"). Significantly, Western Wireless provides cellular service to consumers located in approximately 65 Rural Statistical Areas ("RSAs") -- consumers located in rural areas of California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Texas, and Wyoming. Additionally, and complimenting its cellular presence in rural America, Western Wireless provides cellular service in approximately 16 Metropolitan Service Areas ("MSAs"). In February 1996, Western Wireless also began providing PCS in Hawaii -- the first auction awarded personal communications service in the United States -- and will soon begin providing PCS in the following major trading areas ("MTAs"): Des-Moines-Quad Cities, El Paso-Albuquerque, Oklahoma City, Portland, and Salt Lake City. Together, Western Wireless' cellular and PCS systems cover a large portion of rural America. As a "wireless rural telephone company," Western Wireless is uniquely-situated to serve the basic communication needs of consumers in rural, insular, and high-cost areas.

II. UNIVERSAL SERVICE

A. **The Universal Service Principles of the Telecommunications Act of 1996 Will Be Furthered By Adopting Rules and Policies That Foster Competition in the Provisioning of Basic and Advanced Communications Services To Consumers Located in Rural, Insular, and High-Cost Areas.**

The Act establishes six principles for the preservation and advancement of universal service and allows the Commission to adopt additional principles consistent with the public interest, convenience and necessity.³ These principles reflect two important universal service goals: (1) access by all consumers to high quality basic and advanced telecommunications service at just, reasonable, and affordable rates; and (2) contribution and funding mechanisms administered in an equitable and nondiscriminatory manner. Western Wireless submits that these universal service goals are best met by establishing a competitive framework for the provisioning and administration of universal service.

1. **Access By All Consumers To High-Quality Basic and Advanced Telecommunications Service at Just, Reasonable, and Affordable Rates.**

The goal of making available high-quality basic and advanced telecommunications service at just, reasonable, and affordable rates to all consumers is best met by adopting rules and policies that foster a competitive universal service market. Today, however, LECs enjoy a monopoly in the universal service market. Implicit and explicit subsidies are available to LECs for universal service. These subsidies effectively preclude competitive local service providers -- wireless and wireline -- from competing with LECs in the universal service market. Without competition, LECs have little incentive to provide consumers in rural, insular, and high-cost areas with high-quality basic and advanced telecommunications service at just, reasonable, and affordable rates. In contrast,

³ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), Section 254(b).

competition in urban areas has had significant public interest benefits: rates are lower; new and innovative services are available; and service quality is high. It therefore follows that the goal of making available high-quality basic and advanced telecommunications service at just, reasonable, and affordable rates to consumers in rural, insular, and high-cost areas would be met by the adoption of rules and policies that foster competition between local service providers -- wireless and wireline -- in the "universal service" market.

2. Contribution and Funding Mechanisms Administered in an Equitable and Nondiscriminatory Manner.

To ensure that contribution and funding mechanisms for universal service are administered in an equitable and nondiscriminatory manner, the Commission must adopt rules and policies that do not, directly or indirectly, favor one service provider over another. As explained below, all telecommunications carriers that provide interstate telecommunications services pursuant to Title II of the Communications Act of 1934 should contribute to the preservation and advancement of universal service. The most administratively simple and competitively neutral funding mechanism for universal service would be to base a carrier's contribution on its revenues net payments to other carriers. Whether this universal service assessment is passed on to customers should be determined by the marketplace.

B. Today, Western Wireless and Other Wireless Carriers Are Capable of Providing Universal Service, But, Absent A Special Arrangement With a LEC, Are Unable To Do So.

Western Wireless, through its subsidiary, GCC License Corporation, currently provides universal service to residents in Nevada. In the Antelope Valley and Reese River Valley areas of Nevada, Western Wireless provides wireless basic telephone service to approximately 45 households

The service is provided pursuant to a Stipulation reached between the Public Service Commission of Nevada, Nevada Bell, and Western Wireless.⁴ Under this Stipulation, Western Wireless provides wireless basic telephone service to residences located in a geographical area in which Nevada Bell does not have wireline facilities. In exchange, Nevada Bell pays Western Wireless for the air time charges incurred by residents, who are billed by Nevada Bell a flat-rated monthly charge.

Similarly, in Colorado, cellular vouchers are available to residents that are unable to obtain wireline basic exchange service. Residents are eligible to receive vouchers of up to \$150 per month from the LEC to obtain cellular service until the LEC is able to provide wireline basic exchange service to these residents.⁵ It has been reported that U S West paid more than \$1 million in cellular vouchers to Colorado residents in 1995.⁶

The Commission also should especially recognize the efforts of the Hawaii Public Utilities Commission ("HPUC") in establishing a competitive universal service market. In November 1994, the HPUC found that telecommunication service in rural areas of Hawaii was inadequate.⁷ Subsequently, in December 1995, the HPUC concluded that a competitive bidding process should be established to select a telecommunications provider in rural areas of the state.⁸ Western Wireless

⁴ *In Re To The Report On Nevada Bell's Rural Improvement Projects (RIP) For The Period 1991 Through 1993 and Recommendation For The Period 1994-1996, Stipulation Under Which Fixed Cellular Service Will Be Provided To Approximately 50 Customers In The Reese River and Antelope Valleys, Docket No. 93-7010 (October 1994).*

⁵ 4 CCR 723-2-24.4.3 of the Colorado Public Service Commission Rules.

⁶ *See U S West Communications Spent \$1 Million On Cellular Phone Vouchers, Denver Post, January 18, 1996.*

⁷ Decision and Order No. 13626, Docket No. 7497, November 2, 1994.

⁸ Decision and Order No. 14415, Docket No. 94-0346, December 13, 1995.

understands that the HPUC is planning on releasing a request for proposals (“RFP”) to serve the Ka’u area of Hawaii later this month. The criteria for selecting a carrier to serve the telecommunications needs of consumers will be based upon the following: (1) lowest bid; (2) internal strengths; (3) external strengths; and (4) miscellaneous indicia of fitness and ability.⁹ Western Wireless plans on participating in the RFP process looks forward to providing all consumers, including those consumers located in rural and high cost areas, access to basic and advanced telecommunications services.

These examples of wireless carriers providing universal service illustrate that wireless technologies have unique attributes that can be exploited to provide high-quality telecommunications service to all consumers at just, reasonable, and affordable rates. The time has come for the LECs’ monopoly in the universal service market to come to an end. It is therefore incumbent upon the Commission to adopt new competitively and technologically neutral rules and policies that provide for the provision of universal service by all qualified service providers, including wireless carriers.

C. Western Wireless Agrees With the Commission That the Core Services Eligible for Universal Service Support Should Include Voice Grade Access, Touch-Tone, Single Party Service, and Access To Emergency and Operator Services.

In defining the core services eligible for universal service support, the Commission must keep in mind its goal “to adopt universal service rules that are competitively and technologically neutral so that our rules do not unreasonably advantage one particular technology or class of service provider over another technology or service provider.”¹⁰ The core services proposed by the Commission -- voice grade access to the public switched telecommunications network, touch tone, single party

⁹ *Id.* at p. 18.

¹⁰ *Universal Service NPRM*, FCC 96-93 at para. 17.

service, access to emergency services, and access to operator services -- meet the requirements of Section 254(c)(1) of the Act without directly or indirectly discriminating against certain local service providers.¹¹

Some States, however, have proposed definitions of universal service that would effectively preclude wireless carriers from providing universal service. For example, a definition of universal service that includes a requirement to provide “dial tone” -- a frequency tone audible to a caller -- would discriminate against wireless carriers.¹² A definition of universal service that includes a laundry list of features and services typically offered by LECs would likewise discriminate against wireless carriers.¹³ As these examples illustrate, it is imperative that the Commission, in conjunction with the Joint Board, adopt a definition of universal service that does not prohibit or have the effect of prohibiting wireless carriers from serving the basic and advanced communications needs of consumers in rural, insular, and high cost areas. While the Act allows the States to adopt a variation of the Joint Board/Commission definition of universal service,¹⁴ the Commission should make clear that any

¹¹ These requirements are: (1) essential to education, public health, or public safety; (2) subscribed to by a substantial majority of residential customers; (3) deployed in public telecommunications networks by telecommunications carriers; and (4) consistent with the public interest, convenience, and necessity.

¹² See Hawaii proposed rule Section 6-81-14. Western Wireless submitted comments to the HPUC urging the Commission to delete this requirement.

¹³ See *In the Matter of Proposed Rules Regarding Implementation of Sections 40-15-101 Et. Seq. -- Requirements Relating To The Colorado High Cost Fund*, Decision Adopting Rules, p. 17, Docket No. 95R-558T (adopted March 29, 1996). Western Wireless submitted Comments in this proceeding to the Public Utilities Commission of the State of Colorado.

¹⁴ See Section 254(f) of the Act. “A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions and standards that do not rely on or burden Federal

variation of the universal service definition adopted by the States must be consistent with a competitive universal service market and not directly or indirectly discriminate against wireless carriers. The Act clearly provides that “[n]o State or local statute or regulation, or other State or local requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications service.”¹⁵

D. Support for Rural, Insular, and High-Cost Areas Should Be Limited To Residential Consumers and Schools, Libraries, and Health Care Providers.

The Act contemplates two classes of beneficiaries of universal service support: residential consumers and schools, libraries, and health care providers in rural areas. Extending financial support to single-line business users or all users within rural, insular, and high cost areas would go beyond the purpose of universal service -- ensure that all consumers and certain not for profit entities have access to telecommunications services at just, reasonable, and affordable rates.

Section 254(b)(3) of the Act provides that “[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications . . .” Section 254(h) further provides for the provision of telecommunications service at reasonable rates to (i) health care providers that serve persons residing in rural areas and (ii) educational providers and libraries. The Act specifically states that for profit businesses shall not be entitled to preferential rates or treatment.¹⁶ This is not to say that States cannot establish programs for the construction of an advanced telecommunications infrastructure that would promote economic

universal service support mechanisms.”

¹⁵ Section 253(a) of the Act.

¹⁶ Section 254(h)(4) of the Act.

and business development. In fact, several States have successfully established such programs. These programs, however, fall outside the scope of universal service.

E. The Existing Universal Service Support Mechanisms Are Not Technology Neutral As Required by the Act and Therefore the Commission Should Start From Ground Zero in Establishing New Rules and Policies for the Funding of Universal Service.

Today, LECs are able to subsidize service to rural and high-cost areas through implicit and explicit subsidies. In an era of a single provider of local telecommunications service, this funding mechanism for universal service support may have been appropriate. Now, however, with the introduction of competition in the local service market, a new funding mechanism for universal service must be established. It would be counterproductive and inefficient to establish new competitive universal service rules and policies based upon existing anticompetitive and unreasonably discriminatory rules and policies.

The Commission, in fact, has recognized that basing new universal service rules on existing funding mechanisms would potentially be anticompetitive. “The existing mechanism may, however, give recipients of assistance, currently limited to incumbent LECs, a substantial advantage over competitors who must recover all of their costs from their customers.”¹⁷ Consequently, maintaining existing universal service support funding mechanisms, *e.g.*, modifying the Part 36 jurisdictional separations process to allocate a larger portion of costs to the interstate jurisdiction, may be a quick fix, but would be antithetical to the establishment of a competitively and technologically neutral universal service program.

The passage of the Act illustrates the need for a new approach to telecommunications

¹⁷ *Universal Service NPRM*, FCC 96-93 at para. 28.

regulation. Prior to the passage of the Act, the Commission's attempts to introduce competition in the telecommunications market was met with legal, political, and economic opposition. Now, with the passage of the Act, which establishes new ground rules for competition and provides the Commission with the necessary authority to implement its pro-competitive policies, the Commission is able to pursue, to a large degree, an agenda free of legal barriers. The time has likewise come to free the universal service market of the age old barriers to competition by replacing all existing discriminatory support mechanisms. In its place, the Commission should establish a new framework for the provision and administration of universal service based upon new competitively neutral rules and policies.

III. COMPUTING THE UNIVERSAL SERVICE SUBSIDY

The first step in establishing a competitively neutral universal service program must be to eliminate all existing implicit and explicit subsidies built into the LECs' rates. Only upon the elimination of these subsidies will competitive local service providers be able to compete in the universal service market.

A. The Subsidy for Universal Service Should Be Based Upon A Carrier's Bid Price For Service To Rural, Insular, and High-Cost Areas Minus the Price Established For Basic Telecommunications Service To Consumers Located In These Areas.

Western Wireless submits that the subsidy for universal service should be based upon the following formula:

$$\text{Universal Service Subsidy} = \text{Bid Price} \textit{ minus} \text{ Average Price}$$

Universal Service Subsidy means the amount of subsidy necessary per household per month

from the federal and/or state government to preserve and advance telecommunications service to consumers located in rural, insular, and high-cost areas.

Bid Price means the bid price per household per month for the provision of “universal service” within a specified area of a State.

Average Price means the price per household per month for service comparable to universal service in urban areas within a state.

For example, if a carrier’s *bid price* is \$150 per household per month to serve consumers within a specified rural or high-cost area and the *average price* for comparable service to households in urban areas of the state is \$20, then the *universal service subsidy* would be \$130 per household per month. The carrier with the lowest bid price and who is the best qualified service provider based upon internal, external, and miscellaneous criteria would be the designated universal service provider. Other eligible carriers willing to provide service to these customers also would be able to do so and obtain the defined universal service subsidy.

B. Average Price: The Cost of Basic Telephone Service In Rural, Insular, and High-Cost Areas Within A State Should Be No More Than the Average Cost for Comparable Service in Urban Areas Within A State.

Consumers located in rural, insular, and high-cost areas within a state should not have to pay more for basic telephone service than the average price paid by consumers located in urban areas within the same state for basic telephone service.

C. Bid Price: Qualified Service Providers Should Participate In A Competitive Bidding Process for the Right To Provide Universal Service To Consumers In Rural, Insular, and High-Cost Areas.

The subsidy for universal service will be minimized by soliciting bids to provide

communications service to consumers in rural and high-cost areas from local service providers. A competitive bidding process, for example, has been adopted by the HPUC to select a local service provider to serve rural areas in the Ka'u region of Hawaii.¹⁸ Western Wireless understands that the State of Alaska also uses a competitive bidding process to select carriers to serve rural areas of the State. This process, while representing a significant change from the Commission's existing universal service program, is likely the most cost-effective and competitively neutral method of providing universal service and is consistent with a competitive local services market and the Commission's use of the competitive bidding process to allow carriers that value the right to provide service the most the ability to provide the service.

D. The Lowest Bid Price Is But One Criteria For Selecting The Most Appropriate Carrier To Serve The Communications Needs Of Consumers In Rural, Insular, and High Cost Areas.

While minimizing universal service support should be an important goal of the Commission, it is equally important that a carrier's internal strengths, external strengths, and other indicia of fitness and ability be considered in selecting the most appropriate carrier to provide universal service. Internal strengths would include the carrier's financial, technical, and management experience. External strengths would include a carrier's customer service qualifications, services offerings, and track record. Other indicia of fitness and ability include a carrier's overall ability to provide, on an on-going basis, services falling within the definition of universal service, a carrier's technical and operational capability, and a carrier's ability to upgrade its network to provide new and innovative service offerings.

¹⁸ See Decision and Order No. 14415.

IV. COMPETITIVELY-NEUTRAL UNIVERSAL SERVICE RULES

A. All Carriers Capable of Providing the Core Services Included Within The Definition of Universal Service Should Be Eligible for Support.

To date, only LECs have been eligible to receive funding for the provision of universal service. This historical exclusion of wireless carriers ignores significant advantages of wireless communication systems in providing service to rural or high-cost areas. First, wireless telecommunication systems generally provide ubiquitous coverage to a geographical area regardless of whether a potential customer is located in a high-cost area or an urban area, or whether a potential customer is located in a business or residential area. This important feature of wireless communication systems enables Western Wireless and other wireless carriers to serve consumers that otherwise are not able to obtain wireline communication service due to geographical barriers, such as water, mountains, or remoteness.

Second, wireless communication systems are able to serve certain geographical areas at a lower cost than wireline communication systems. Clearly, the cost of constructing, operating, and maintaining wireline facilities to serve sparsely populated areas is very expensive. It also is very expensive for LECs to upgrade their facilities in rural and high cost areas to provide advanced digital communications services. This explains why competitive wireline local service providers typically do not serve remote or sparsely populated areas. For competitive wireline carriers, a cost-benefit analysis leads to the conclusion that the cost of serving remote or sparsely populated areas exceeds the benefits (revenues) derived from the service. In contrast, wireless communications systems indiscriminately serve customers regardless of their physical location. While the cost per subscriber of constructing, operating, and maintaining a radio-based system varies depending upon the number

of subscribers served, it is generally less expensive for wireless carriers to serve consumers in rural or high-cost areas than it is for wireline carriers. This cost difference is extremely important in the context of universal service because subsidies will be minimized by allowing the least-cost provider to serve consumers in rural or high-cost areas.

Another advantage of wireless communications systems is their mobility. The public safety value of wireless communication systems is extremely important, especially in rural areas where consumers do not always have access to a wireline communication system. Clearly, the attributes of wireless communications systems warrant universal service rules and policies that allow consumers to take full advantage of such systems.

B. All Telecommunications Carriers Providing Interstate Telecommunications Services Pursuant to Title II of the Communications Act of 1934 Should Be Required to Contribute To the Funding of Universal Service.

The Act clearly states 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.”¹⁹ Based upon the definition of “telecommunications services” in Section 3(a)(51) of the Act, Western Wireless submits that every carrier that provides interstate telecommunications services pursuant to Title II of the Communications Act of 1934 (*e.g.*, an interstate common carrier) is required to contribute to the funding of universal service. This would include all interstate interexchange carriers (“IXCs”), LECs that provide interstate telecommunications services, Commercial Mobile Radio Service (“CMRS”) providers, and other

¹⁹ Section 254(d) of the Act.

carriers that provide interstate telecommunications services on a common carrier basis.

C. Contributions To the Preservation and Advancement of Universal Service Should Be Based Upon Revenues Net of Payments To Other Carriers.

A universal service assessment based upon a carrier's revenues net payment to other carriers would be the most competitively neutral funding mechanism. This assessment would be imposed upon every carrier that provides interstate telecommunications services pursuant to Title II of the Communications Act of 1934. This funding mechanism also would be consistent with the method used by the Commission for the collection of regulatory fees and thus would not impose differing reporting requirements on carriers.

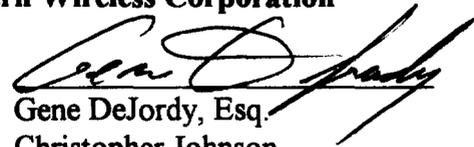
V. CONCLUSION

Western Wireless respectfully submits that the establishment of competitively neutral universal rules and policies as proposed herein would preserve and advance the provision of communications services to consumers located in rural, insular, and high cost areas.

Respectfully Submitted,

Western Wireless Corporation

By:



Gene DeJordy, Esq.

Christopher Johnson

Western Wireless Corporation

330 120th Ave., NE - Suite 200

Bellevue, Washington 98005

206-451-8428 (tel)

206-450-7795 (fax)

Dated: April 12, 1996