

carriage requirements for that area and market segment." (Id., p. 5) According to SNET, "[t]hey should make available their services equally to all, subject, of course, to customers' willingness to pay."⁵ (Id.) "To ensure that customers are treated in a manner that is consistent with the Department's public policy objectives, security deposit, collection requirements, and late payment charges should be equally applicable to all providers."⁶ (Id.)

In SNET's view, "[i]f the Department determines that the [Local Exchange Companies' (LECs)] costs of providing basic service exceed the prices charged today for basic service, and that moving prices to cover costs immediately would be inconsistent with public policy objectives, then a universal service fund should be established as a transitional mechanism, along with gradual price increases for services priced under cost today." (Id., p. 6) According to SNET, "[t]his will enable incumbent LECs to increase their prices to cover costs over time without customer disruption."⁷ (Id.)

SNET identifies the critical issues concerning the development of a universal service fund as: "(1) the level of funding, (2) who contributes to the fund, (3) who can draw from the fund, and (4) how to select an administrator." (Id.) SNET recognizes that in a world of multiple basic service providers with different cost structures, the necessary level of funding is a complex issue. SNET recommends that "[s]everal cost profiles for basic service . . . be developed, e.g. metropolitan, suburban

⁵ OCC feels that SNET's view on "requirements to serve" should be rejected because it "could preclude effective competition from developing in Connecticut." (OCC Comments, p. 9) NECTA states that "rather than apply all requirements that presently apply to SNET to competitive local exchange carriers (CLECs), the Department should consider the purposes of the individual requirements and, based upon whether the purpose pertains uniquely to the dominant carrier or is generally applicable to all CLECs, assess whether particular requirements should apply to new entrants as well as to the incumbent carrier." (NECTA Comments, p. 2)

⁶ OCC urges rejection of these requirements proposed by SNET. "In effectively competitive markets, customers choose the carrier from whom they receive service based on any number of factors, including the price and quality of service. However, there is no reason why carriers in a competitive market should not also be free to compete for customers, and bear the risks associated with that competition, based on their specific deposit and collection requirements, and the level of their late payment charges." (OCC Comments, p. 11)

⁷ OCC has a number of concerns with SNET's transition proposal. According to OCC, "[a]t the present time, universal service is supported by several complex revenue flow arrangements including above cost rates for access, business and other services." (OCC Comments, p. 5) OCC states that "[t]hese rate structures and resultant revenue flows were designed to subsidize the provision of residential service, which is allegedly priced below cost." (Id.) "As long as these subsidies remain in place during the transition period, there is no need for new or additional funding mechanisms." (Id.) OCC further explains: "To assure that carriers are not improperly overcompensated during the transition period, above-cost rates providing subsidies will need to decrease at the same time as, and in line with, increases in below-cost local service rates. Once rates reach cost, there will be no need for a subsidy unless it is determined that charging a cost-based rate will have a negative effect on universal service. Thus, absent a specific showing that cost based rates will have a negative effect on universal service, and that the existing subsidy mechanisms (including Lifeline, LinkUp and TRS) are inadequate to maintain universal service, there is no reason to establish new or additional funding mechanisms during the transition period." (Id., p. 6)

and rural." (Id., p. 7) "Price increases would correspond by increasing relatively more in rural areas than in metropolitan areas."⁸ (Id.)

In SNET's view, "[b]ecause all providers benefit from the new environment, and because all are contributing to the changes, (long distance companies by moving prices toward cost, local providers by competing in local markets) . . . all telecommunications companies . . . should participate in a manner proportionate to market share, with the measure of market share to be determined." (Id., p. 8) SNET suggests that "facilities based basic service providers should be recipients of a universal service fund." (Id.)

Finally, SNET states that "[t]he choice of fund administration should be guided by several criteria." (Id., p. 9)

No new bureaucracy should be established. Expertise in telecommunications will be necessary. Competitive neutrality and the ability to protect customer information are essential. Since the fund should be a transitional mechanism, the duty should not be too burdensome, and expertise should be an important consideration.

(Id.)

4. AT&T Communications of New England, Inc. (AT&T)

AT&T states that "[u]niversal service will always be a driving concept for the telecommunications industry." (AT&T Position Paper, p. 1) "The rationale, that everyone benefits if the greatest possible number of users have at least basic access to the network, is as valid today as it was in the past." (Id.) According to AT&T, "[w]hat must change with the onset of competition is the concept that universal service requires universal subsidies of basic local rates." (Id.)

AT&T maintains that "subsidies for local service are no longer economically or socially efficient." (Id., p. 2) Furthermore, AT&T contends that subsidies cannot continue because: 1) "artificially low rates for local service act as a major barrier to the entry of competitors for local exchange service"; 2) "artificially high access rates spur entry of competitors and possibly uneconomic bypass"; and 3) "the

⁸ SNET suggests that "[o]ne approach that could be used to determine how much could be drawn from the fund would be to use the ratio of each provider's cost to that of SNET's." (SNET Position Paper, p. 7) OCC opposes this idea for a number of reasons: "First, under SNET's proposal, the measure of a carrier's recovery would not be its own costs, but the relationship of its costs to SNET's costs. . . . Second, SNET's proposal is not only unfair, but likely creates an unlawful discrimination among carriers. Third, SNET's proposal would disproportionately reward high cost providers (i.e. SNET). Finally, SNET's proposal violates one of its three subsidy principles; to wit, that all subsidies be structured so that no provider is advantaged over any other." (OCC Comments, p. 8, quoting SNET Position Paper, p. 2) NECTA states that SNET's funding approach "would penalize competitors' cost-cutting efforts." (NECTA Comments, p. 3)

cost shift from one class of customers to another to subsidize local service rates fails to redistribute the benefits in accordance with social welfare objectives." (Id.)

AT&T implores the Department to develop a formal policy which will foster universal service in conjunction with the impending entry of competition into the local exchange. (Id., p. 3) According to AT&T, "[t]he key to this policy is local exchange pricing reforms that eliminate non-targeted cross-subsidies and replace them with more narrowly focused subsidies based primarily on customer need." (Id.) "The broad, non-targeted subsidies of today must be eliminated." (Id.) Furthermore, AT&T recommends that the Department encourage the FCC to jointly address this uniquely important issue with representatives of the state regulatory agencies and invoke a single national strategy for universal service preservation. (Id.)

AT&T proposes several new policy initiatives for Department consideration with respect to the preservation of universal service objectives in conjunction with increased emphasis on local exchange competition: universal service should no longer mean universal subsidy; the subsidy should follow the subscriber; subsidies should be limited to basic service; rural carriers may have unique needs; and funding should be obtained in a competitively neutral way from surcharges on all customer bills with funds administered by a neutral third party who should have oversight and management responsibilities. (Id., pp. 3-4)

In AT&T's view, with these principles as a guide, a series of specific steps can be taken which will permit competition to emerge where it is economically feasible while simultaneously preserving universal service goals: reform and reduce local exchange access prices by assigning all costs properly; set local rates based on cost; and create a new basic service subsidy fund. (Id., pp. 4-5) AT&T states that these "principles would apply to all major local exchange carriers (carriers with revenues of \$100 million or more)." (Id., p. 5) "Rates for these carriers would then become the benchmarks for rates permitted for other local carriers in the state or region." (Id.) "Regulators would set the rural carrier's traffic sensitive access rates at the same level as the major carrier's rates, and then determine whether and to what extent local rates should be changed." (Id.)

AT&T suggests that basic telephone service should be viewed as a subset of universal service. (Id., p. 6) "Whereas universal service relates to the general availability of service, the concept of basic service recognizes that there is some fundamental level of service which should be made available to all, irrespective of their ability to pay." (Id.) While in AT&T's view the definition of universal service is not subject to change "since it is a concept that requires that technology be universally deployed and available," the definition of basic service should be "sufficiently flexible so as to allow for modifications over time as determined by societal demands." (Id.)

AT&T contends that the Department must adopt policies favoring local exchange competition as quickly as practicable. (Id., p. 8) According to AT&T, "[l]ocal exchange competition would bring the same consumer benefits to the 'last mile' of the

network that are already being enjoyed in the long distance, equipment and information services market." (Id.)

In sum, AT&T cautions the Department to make any new subsidy mechanism competitively neutral so that it does not impede the development of competition. AT&T advocates an approach whereby: "(1) state authorities determine the criteria for customers to receive a subsidy for basic service, (2) all telecommunications providers contribute to the subsidy pool based on retail (i.e., end-user) bills, (3) a competitively neutral third party determines which customers receive the subsidy, administers the subsidy pool, and directs payments from the pool to whichever competitive basic service provider the eligible customer chooses." (Id., p. 11) According to AT&T, "[w]hen this occurs, it will eliminate the 'built-in' subsidy that today is extended to all customers, irrespective of their ability to pay." (Id.) "Then only those customers that need to be subsidized will receive support." (Id.)

5. MCI Telecommunications Corporation (MCI)

MCI boldly asserts that "competition and universal service are completely consistent," but immediately cautions that "the current method of funding any universal service subsidy (assuming one exists in Connecticut) is inconsistent with the goal of effective competition." (MCI Position Paper, pp. 1-2)

Currently, it is often assumed that residential basic exchange service is being subsidized. If such a subsidy does exist in Connecticut, it is funded currently by a complex system of cross-subsidies that are internal to the incumbent LEC's rate structure. Under this internal subsidy system, some services are priced well in excess of cost to support other services that are priced below cost. This internal cross-subsidy system has a number of significant drawbacks. First, usually there has been no quantification of how much of a subsidy, if any, residential subscribers are receiving. Second, it is practically impossible to determine how much of a subsidy (if any) flows from other services to support universal service (as opposed to supporting excess earnings or other costs unrelated to basic universal service). Third, with this system of internal subsidies, universal service is inexorably 'linked' to the revenue stream of the incumbent LEC.

This internal subsidy system is antithetical to effective local exchange (or other) competition. First, commissions may resist downward pressure on rates that are above cost - such as switched access rates - for fear of somehow eroding any subsidy that may exist in those rates. Thus, because universal service is 'linked' to the revenue stream of the incumbent provider, commissions are placed in the position of having to protect the incumbent from competitive pressures to reduce rates and costs. Second, to the extent subsidies exist, it is impossible under the current system to differentiate between the economic cost of providing universal service and the LEC 'revenue requirement,' which contains - among other things - inefficiencies. Inefficiencies in the incumbent LEC's cost structure must be isolated and driven out of rates, not preserved via subsidies. Third, to the extent subsidies actually exist, then so long as those subsidies are available only to subscribers of the incumbent, then competition for those subscribers will be effectively foreclosed. Reforming the funding of universal service is, therefore, critical to the development of effective local competition.

(Id., pp. 2-3)

MCI thus proposes that funding for universal service should be reformed in the following manner:

- 1) Basic universal service should be explicitly defined.
- 2) The economic cost of basic universal service should be determined.
- 3) Funding for any subsidy for universal service should be generated from all telecommunications providers in a competitively neutral manner.
- 4) Universal service subsidies should be available to the subscribers of any local exchange provider through a virtual voucher mechanism.⁹
- 5) Any other rate of the incumbent provider that is above cost cannot be sustained on the grounds that that rate is necessary to preserve universal service.

(Id., p. 3) According to MCI, "[u]nder this proposal, the amount of subsidy is explicitly determined; the subsidy is 'de-linked' from the incumbent provider's embedded costs (which contain inefficiencies and overvalued plant); and the subsidy is made available to all providers of residential basic exchange service." (Id., p. 4) MCI concludes that "[w]ith these reforms, competition is free to drive prices down as far as possible, while universal service is safely protected via a separate universal service fund." (Id.)

⁹ MCI states that "[u]nder a virtual voucher system administered by a neutral third party, customers would choose their desired local exchange provider and the provider would receive from the fund an amount equal to the required subsidy." (MCI Comments, p. 8) OCC believes that an indirect subsidy mechanism, such as the "virtual voucher" system proposed by MCI would "assure 'competitive neutrality' by allowing customers to choose how they spend their scrip." (OCC Comments, p. 7)

6. Sprint Communications Company L.P. (Sprint)

Sprint states that "[t]he purpose of universal service is to make telephone (voice) service available to as many people as possible at a reasonable rate." (Sprint Position Paper, p. 4) According to Sprint, today, "universal service includes basic service, or Plain Old Telephone Service (POTS), consisting primarily of a voice grade access line providing basic access to the public switched network." (Id.) Sprint suggests that with the newer technologies available for deployment, a wide array of products and services far beyond the simple voice services are available and the Department must determine which of these new products and services fit within the concept of universal service. (Id., pp. 4-5)

Sprint supports the view of some others in this proceeding that "[t]he bundle of services included in universal service should be nationally defined and adjusted periodically to accommodate changes in technology and changes in customer demand." (Id., p. 5) According to Sprint, "[a] Federal/State Joint Board and/or an industry forum should be charged with making recommendations to the Federal Communications Commission which would ultimately have to review the recommendations and set the national policy." (Id.)

Sprint proposes that universal service policies reflect the following principles: competition is not necessarily inconsistent with promoting universal service; universal service funding needs should be made explicit; the bundle of services included in universal service should be nationally defined and adjusted periodically; universal service is not threatened by moving local rates to more realistic levels; universal service funding should be targeted to end-users based on need; universal service funding should be targeted to companies that serve high cost exchanges; universal service funding should be competitively neutral; universal service funding should not be used to fund voluntary LEC network upgrades; and universal service funding should be broad based. (Id., pp. 6-8)

On the issue of "requirements to serve," Sprint states that the "obligation for incumbents to provide service to all . . . should diminish as the transition to full competition results in ubiquitous alternatives." (Id., p. 8) According to Sprint, therefore, "[e]ffective competition should obviate the provider of last resort concept." (Id.)

7. The New England Cable Television Association, Inc. (NECTA)

NECTA argues that "[t]he definition of universal service should be sufficiently broad to ensure affordable access throughout the state and sufficiently narrow so as to prevent excessive cost burdens on ratepayers." (NECTA Position Paper, p. 3) NECTA's concern is that "overstated claims of subsidy requirement will skew the perception of competitive services and perpetuate LEC-directed control and manipulation of subsidy fund administration. (Id.)

The first step in establishing the Department's universal service policy is to define the scope of the basic services that should be provided on a ubiquitous basis. Too narrow a definition may leave some customers in high-cost areas and low-income customers without basic telecommunications services. On the other hand, too broad a definition will cause the level of subsidy required to be greatly inflated, a subsidy whose cost is borne by all other consumers. Moreover, it is probable that a higher than necessary subsidy requirement will be relatively more burdensome to new entrants and will thus have a negative effect on the viability of competition.

(Id., p. 4)

According to NECTA, "[o]ne of the most important criteria in determining an appropriate scope of universal service is customer need or demand for the service or capability, which can be measured by the level of subscription and whether the service or capability would be generally available and affordable without government action." (Id.) "The Department should be guided by the marketplace in determining an appropriate definition of universal service." (Id.)

NECTA maintains that "[t]he goals of competition and universal service are fully compatible." (Id., p. 6) In NECTA's view, "[c]ompetition should drive prices down toward cost, encourage greater efficiencies among the LECs, and reduce the need, if any, for subsidizing residential service." (Id.) NECTA states that it "is fully prepared (should it enter the local exchange market) to participate in the funding and design of a universal service program in Connecticut, provided that it is structured in a competitively neutral fashion and does not reward inefficiencies of the existing LECs." (Id.)

NECTA states that "[a]ny additional rules and regulations necessary to ensure the future availability, accessibility, and affordability of telecommunications services within the context of broader competition should be designed in such a way as to encourage efficient investment and to be supplier-neutral." (Id., p. 7)

On the issue of "requirements to serve," NECTA is of the opinion that regulatory policies "should reflect whether a carrier is a dominant carrier and should also reflect common carrier responsibilities to serve all similarly situated customers." (Id., p. 9)

NECTA states that "[r]ather than adopting the maintenance of low basic service rates for all residential customers as its goal, the Department should instead seek to maintain low basic rates only for those for whom the monthly rate imposes a hardship and is thus a deterrent to obtaining and maintaining access to the public switched network." (Id., p. 12) According to NECTA, "[s]hould residential rates rise further during upcoming years, it may be appropriate to expand the scope of eligibility (though for obvious administrative reasons, it would be preferable to continue to rely on existing income maintenance programs rather than to create entirely new income

verification procedures) and to periodically evaluate whether the level of the assistance is adequate." (Id.)

NECTA contends that "[b]ecause all providers should be required to contribute to clearly articulated social policy goals such as Lifeline and relay services, and because all customers, regardless of the provider they select, should have equivalent ability to obtain access to Lifeline and relay (any other generally funded) subsidies, it is imperative to establish a neutral fund for all providers." (Id.) In NECTA's view, whether a universal service fund should also address high cost issues is a more difficult question. (Id.) NECTA offers conditional support, however, if a state universal service fund is found to be necessary to provide assistance to high cost areas within the state. NECTA suggests that the design of any such high cost assistance program should be consistent with the recommendations made in a study recently completed by Hatfield Associates on behalf of MCI, which, among other things, identifies six cost zones (reflecting population per square mile). (Id., p. 13) "Furthermore, an independent assessment of the population density and the terrain of the Connecticut exchange should be conducted before the state embarks on a state-based high cost fund, to determine whether, indeed, there are any high-cost areas to serve in Connecticut." (Id., pp. 13-14)

NECTA presumes that the goal of incorporating a high cost element in a universal service fund would be to ensure that costs do not vary excessively across the state and thus to allow efficient competition to develop. (Id., p. 14) NECTA recommends that the Department consider not only the cost of serving a particular exchange but also the average income of an exchange. (Id.) "Alternatively, rather than subsidizing all residents of a high-cost exchange, it may be more efficient to establish a statewide uniform lifeline rate that would apply to all income-eligible customers even if at some future time the residential exchange rate is otherwise geographically deaveraged." (Id.)

NECTA summarizes its position on a universal service fund as follows:

In any event, whatever funding approach is ultimately decided upon should be equitable to the ratepayer, the incumbent carrier, and new entrants. The funding mechanisms to achieve universal service should be competitively neutral, i.e., the mechanism should not favor one supplier over another supplier, but rather should be structured so as to result in the provision of subsidized service at the least cost to society. The [universal service fund] charge should be assessed on local service providers for all loops provided on a voice-grade equivalent basis, and should encompass cellular access to the network as well as landline access. Under this mechanism, information providers and programmers, and CPE vendors would have no obligation to finance universal service. Because funds would be collected from LECs and from their competitors, the disbursement of the funds should be by a neutral third party, with the funds being used to fund the variety of Department-authorized subsidies for targeted portions of the population. All [universal service fund] revenues should be collected from and distributed to local service providers by a neutral third party.

(Id., p. 15)

8. **Metro Mobile CTS of Fairfield County, Inc., Metro Mobile CTS of Hartford, Inc., Metro Mobile CTS of New Haven, Inc., Metro Mobile CTS of New London, Inc., and Metro Mobile CTS of Windham, Inc. (collectively, Metro Mobile)**

Metro Mobile acknowledges that Public Act 94-83 references the possibility of both a Lifeline Program and a Universal Service Program. (Metro Mobile Position Paper, p. 3) According to Metro Mobile, however, "the ultimate objective for each program is the same - to ensure the availability of basic telephone service to any individual or business who wants it." (Id.) In Metro Mobile's view, "a Lifeline Program is nothing more than a funding program established in order to promote the universal availability (i.e. Universal Service) of basic telecommunications services." (Id.) Metro Mobile states that "[t]he only change occasioned by Public Act 94-83 is that the reference to the universal availability of telecommunications services to 'businesses' means that a change will need to be effected in eligibility requirements for the existing Lifeline Program in order to provide for subsidies to certain qualifying businesses." (Id., p. 4)

"Metro Mobile submits that Public Act 94-83 does not effect a change in the definition of Universal Service and Lifeline Service." (Id., p. 6) According to Metro Mobile, "[t]he only distinction is that the broader base of providers of telecommunications services means that a greater number of companies will be responsible for the funding of universal service availability via contributions to the Lifeline Program." (Id., pp. 6-7) Metro Mobile maintains that pursuant to the Act, "[a] fund must be, and in fact has been, established by the [Department] in order to ensure the universal availability of basic telecommunications services to low income individuals." (Id., p. 7)

Metro Mobile contends that "[s]ince Public Act 94-83 contemplates the possibility of competition for local exchange or 'basic' service, the funding mechanism (which currently involves credits on the bills of qualifying individuals) must be modified to provide for a retrospective recognition of the credits afforded to low income individuals and qualifying businesses by those certified by the Department to provide 'basic' service." (Id.) In Metro Mobile's view, "[a]s long as certified providers of basic or local exchange service agree to provide service to any and all customers within a defined local area, those telecommunications service providers must be required to serve all individuals and businesses within the area." (Id., pp. 7-8) Metro Mobile thus believes that the complex issues associated with "requirements to serve" will be avoided. (Id., p. 8)

"Although Metro Mobile persists in its belief that the Department is without authority to assess wireless providers for programs associated with the universal availability of telecommunications services absent of [sic] finding that wireless service is a substitute [f]or landline service, see Budget Reconciliation Act of 1993 Pub. L. No. 103-66 § 6002, 107 Stat. 379 (1993), the Metro Mobile Companies recognize that the increased use of the telecommunications network benefits all providers of such services." (Id., p. 10) Metro Mobile, therefore, is "willing to continue to 'voluntarily contribute,' as they currently do to the existing Lifeline Program, to any program designed to ensure universal accessibility of the telecommunications network." (Id.) "However, any effort to make this 'voluntary contribution' compulsory via a direct surcharge or 'tax-type' mechanism will be opposed." (Id., pp. 10-11)

9. Cablevision Lightpath, Inc. (Lightpath)

Lightpath expresses its support for universal service and states that it "expects to pay its fair share of the cost of such service." (Lightpath Comments, p. 1) In Lightpath's view, "the Department should seek to promote universal service while minimizing the costs imposed upon carriers and ratepayers." (Id.) Specifically, Lightpath believes that universal service: "(1) should provide assistance to those who need support; (2) subsidies should promote efficient investment and operation; and (3) subsidies should not excessively burden providers and ratepayers." (Id., pp. 1-2)

Lightpath views universal service and local competition as being "highly compatible" and believes that "the advent of competition will assure universal service." (Id., p. 2) According to Lightpath, "effective competition will drive prices towards the costs of providing those services and, in doing so, encourage greater efficiency as well as reduce the need for subsidizing residential service." (Id.)

Lightpath emphasizes that "universal service is grounded in the obligation to assure the availability of basic telecommunications services." (Id.) Lightpath cautions that "an overly broad definition [of basic service] will cause the level of universal service subsidy, which is ultimately borne by the consumer, to be greatly inflated, and can itself impede economic growth by providing services that are neither used or desired." (Id., pp. 3-4) Nonetheless, Lightpath recognizes that any definition

applied by the Department to basic service should be evolving, not static. (Id., p. 3) According to Lightpath, however, "[a]lthough it may be appropriate to revisit the definition of basic service from time to time . . . customer demand for a service or capability is not an appropriate basis for regulatory intervention in the market." (Id., p. 4)

Lightpath, while supportive of universal service principles for those in need of assistance, maintains that "the universal service subsidy should not serve as a vehicle to providing competitive advantage for certain LECs." (Id., p. 5) Therefore, in Lightpath's view, "it is imperative that all subsidies be explicitly identified, and competing carriers of basic local exchange services should be able to provide service and, where appropriate, receive the subsidy." (Id., p. 6) Lightpath further articulates its view that "universal service funding must be provided on a neutral and non-discriminatory basis." (Id.)

On the issue of "requirements to serve," Lightpath is of the view that "all carriers should not be required to serve all markets because such a requirement would be a barrier to competition." (Id., p. 7) "[S]ince the incumbent LEC already has the facilities to serve all households and businesses in its territory, it would be economically inefficient to require other carriers to replicate that capability." (Id.)

In the few instances where this baseline assumption may not be the case (i.e., new developments in remote areas), Lightpath submits that there is a simple and effective way to assure that service is provided while minimizing the economic inefficiency due to subsidization of the service. The right to obtain a universal service subsidy for serving unattractive areas should be offered to any eligible provider of basic service that meets the Department's minimum service quality criteria and is willing to commit to provide and maintain facilities within the area while being subject to a cap on the prices it may charge for access. The local exchange provider or providers that agree to accept these obligations in exchange for the lowest subsidy payment should be allowed to provide service. This would give local exchange providers an incentive to serve the unattractive areas as efficiently as possible, while assuring customers in these areas that access to the network would be available.

(Id., pp. 7-8) Lightpath believes that the "obligation for incumbents to provide service to all should diminish as the transition to full competition results in ubiquitous alternatives." (Id., p. 8)

B. POINTS OF AGREEMENT AND CONTENTION

The above discussion sets forth the general positions of the participants submitted in this proceeding. An analysis of the details of those positions reveals a significant consensus of opinion among this docket's participants. Specifically, the participants generally agree that: (1) any universal service program should ensure the

availability and affordability of basic telecommunications services to Connecticut's residents; (2) the introduction of broader market participation, in and of itself, does not threaten universal service; and (3) determination of the need for a universal service fund demands prior detailed examination of the costs of provisioning service by each of the incumbent telephone companies.

Participants express differing views, however, on a number of equally significant issues: (1) whether a universal service fund is actually necessary at this time; (2) the manner in which universal service funds should be collected and distributed in a competitive telecommunications market; and (3) the need, necessity and value of "requirements to serve" in preserving universal service.

IV. DISCUSSION

A. Introduction

Public Act 94-83 envisions a regulatory framework that will support the pursuit of broader market participation, while affording this Department the means to ensure that the public interest is protected. One public policy commitment to which the Act makes recurring reference is Universal Service, suggesting its relative importance to both the legislature and the public it represents. The Department initiated this proceeding to explore Universal Service issues, including the potential impact that broader market participation may have upon the goal of Universal Service.

B. Statutory Framework

Public Act 94-83 includes among its goals "the universal availability and accessibility of high quality, affordable telecommunications services to all residents and businesses in the state." Conn. Gen. Stat. § 16-247a (a), as amended by Public Act 94-83. In furtherance of that goal, the Act directs the Department to "(1) periodically investigate and determine after notice and hearing, local service options, including the definition and components of any basic telecommunications services, necessary to achieve universal service and meet customer needs and . . . (2) establish a lifeline program funded by all telecommunications companies on an equitable basis, as determined by the Department, sufficient to provide low income households or individuals with a level of participation in the economy and society of the state." Conn. Gen. Stat. § 16-247e (a), as amended by Public Act 94-83. In addition, the Act empowers the Department to "establish a universal service program, funded by all telecommunications companies or users in the state on an equitable basis, as determined by the Department, to ensure the universal availability of affordable, high quality basic telecommunications services to all residents and businesses throughout the state regardless of location." Conn. Gen. Stat. § 16-247e (b), as amended by Public Act 94-83. "Any funds contributed to a universal service program shall be used to support the availability of basic telecommunications services provided by any telecommunications company in a manner to be determined by the Department." *Id.*

C. The Relationship Between Universal Service and Basic Service

Participants in this proceeding have noted that, in many respects, their public positions on Universal Service issues depend on the definition applied to Universal Service. Public Act 94-83 does not define "Universal Service," nor does it require that the Department supply such a definition before determining the necessity of any Universal Service Fund. The Department agrees with the participants in this proceeding, however, that a common working definition for the term would be useful and beneficial.

In Docket No. 94-07-07, DPUC Investigation of Local Service Options, Including Basic Telecommunications Service Policy Issues and the Definition and Components of Basic Telecommunications Service, the Department promulgated a functional definition of "basic telecommunications services" that incorporated twelve capabilities and qualities. Decision, p. 18, February 28, 1995. In that same Decision, the Department directed all authorized providers to meet all bona fide requests for such services in the geographic area(s) for which the provider is certified. *Id.* The basic service offering (and other offerings predicated upon it) will likely continue in the near future to be the most heavily subscribed service offering, and, therefore, will continue to be a meaningful achievement standard for measuring Universal Service penetration. In the remaining proceedings established to implement the Public Act, and until such time as the Department deems it appropriate to conclude otherwise, the Department will so recognize the relationship between basic telecommunications services as defined in Docket No. 94-07-07 and the principle of Universal Service.

It should be recognized, however, that basic service is not a static service offering but is, in and of itself, a dynamic and evolving set of technological capabilities. The definition of basic service developed in Docket No. 94-07-07 represents a significantly enriched set of functional attributes to that generally available for consideration by earlier generations of users and regulators. Over time, the set of functional attributes deemed essential for minimally acceptable access to and use of the public switched telecommunications network must increase to ensure that the residents of Connecticut realize the full benefits of technological progress and broader market participation expected with enactment of Public Act 94-83. As the level of economic and social dependence upon enriched telecommunications networks grows in the future, it will be the responsibility of this Department to ensure that both "availability" and "affordability" are preserved for Connecticut's residents. Therefore, the Department serves notice on all participants that it reserves the right to review and revise in the future the composition of basic service and the associated commitment of the industry to its universal deployment.

D. The Historic and Future Role of Universal Service Regulatory Strategies

Universal service goals were initially proposed by the regulatory community and the telecommunications industry based on the belief that everyone will benefit if the greatest possible number of users have access to the telecommunications network.

Many historians, regulators and industry leaders have regarded pursuit of universal telecommunications service as a relatively sophisticated economic development tool instrumental in the modernization of American society. This Department feels strongly that past regulatory strategies in Connecticut promoting Universal Service have been mutually beneficial for both the public and the industry.

The efforts of Connecticut's incumbent telephone companies to achieve general availability of basic telecommunications services are commendable and deserve the appreciation of both the public and the prospective market participants who will benefit from their efforts. The current widespread availability of basic telecommunications services in Connecticut, however, does not relieve this Department or the telecommunications industry from the responsibility of ensuring the preservation of and improvement to Universal Service in the future.

While a number of participants in this proceeding (as well as in other proceedings implementing the Public Act) suggest that broader market participation will virtually ensure the continued availability of basic telecommunications services throughout Connecticut, no one has explicitly guaranteed that such services will be affordable. Many participants continually allude to the fictional "First Law of Effective Competition" that "prices will move to cost." These participants fail to adequately disclose, however, that, were such a dynamic to occur without benefit of some market "curbs," the price of basic telephone service may quickly defy any categorization as "affordable" if this Department determines that prices are well below cost. The result could be a massive deterioration in Connecticut's Universal Service penetration. Such a result would be wholly unacceptable to this Department and would constitute a failure to achieve the Act's goal to "ensure the universal availability and accessibility of high quality, affordable telecommunications services to all residents and businesses in the state." See Conn. Gen. Stat. § 16-247a (a).

Moreover, telecommunications continues to be increasingly viewed by a knowledgeable public as an important contributor to the social, political and economic progress of Connecticut. That impression is reinforced by the aggressive advertising and repeated public proclamations of industry leaders who assert that availability and accessibility to a highly enriched telecommunications infrastructure will be critical to the competitive success of individuals, institutions and even nations in the immediate future. Those who have it (i.e., modern telecommunications) will be leaders and those who do not will be "has beens" in the Information Age. The image of a future where success or failure are inextricably linked to telecommunications and information technologies is an extremely powerful one that elevates the seemingly mundane issues presented in this docket to a level of strategic importance to everyone who lives and works in Connecticut.

It is in that strategic context that this Department has examined the issues in this proceeding and has formulated its respective policies. This Department has, on numerous prior occasions, affirmed its commitment to improving the economic well-being of the people of Connecticut. Just as the commitment to universal telephone service in years past has provided today's residents the ability to meaningfully

participate in the social, political and economic life of the state, the Department's reaffirmation to the principles of universal service (recognizing the need for some redefinition in the context of a multi-provider market) will advance the interests of the Connecticut public in the Information Age.

E. Public Act 94-83 Contemplates A Universal Fund Separate and Distinct From The Lifeline Program

Public Act 94-83 contemplates two programs to further its Universal Service goal. First, it requires the Department to establish a Lifeline Program to be equitably funded by all telecommunications companies, "sufficient to provide low income households or individuals with a level of telecommunications service or package of telecommunications services that supports participation in the economy and society of the state." Conn. Gen. Stat. § 16-247e (a), as amended by Public Act 94-83. The Lifeline Program, therefore, is a targeted support available to individual telecommunications users who could not otherwise afford the cost of basic telecommunications services (irrespective of whether such service is provided in a low-cost or high-cost service area). The specific details of the Lifeline Program are the subject of Docket No. 94-07-09, DPUC Exploration of the Lifeline Program Policy Issues.

Second, the Act empowers the Department to construct a Universal Service Program which would ensure that all residents and businesses in the state, regardless of location, have access to affordable, high quality basic telecommunications services, to financially protect residents in geographic areas of the state that might otherwise go unserved or underserved in an unconstrained competitive environment. Unlike the Lifeline Program, establishment of the Universal Service Program is left to the discretion of the Department, an action that the Department will take only if it deems it necessary for the preservation of Universal Service. The Act thus provides the Department with a regulatory mechanism to ensure that a multi-provider environment does not unnecessarily deny users in any geographic area access to affordable basic telecommunications services. In other words, a Universal Service Program will serve to extend the telecommunications infrastructure into high-cost areas without causing unfair and unwarranted financial hardship on either incumbent or new providers of basic telecommunications services. The Department will approach the issue of a Universal Service Program, and any associated funding mechanisms required by it, with caution to ensure its relative neutrality to all telecommunications services providers.

F. With Proper Regulatory Safeguards, Universal Service And Effective Competition Can Coexist

This Department has stated on numerous occasions its belief that Public Act 94-83 constitutes a broad statement of legislative intent to pursue broader market participation as a means to improve the economic and social well-being of Connecticut's residents. Participants in this proceeding generally agree that universal service and local competition are reasonably compatible goals. This view is supported by the Public Act which states both as goals for the state and which directs the

Department to initiate selective regulatory reform as a means to facilitate its policy objectives of universal service and effective competition.

The Department is keenly aware of both the economic cost and the economic benefit that is presented by the two policies. The Department is fully committed to the pursuit of broader market participation wherever possible and wherever it does not negatively affect the public's interests. Likewise, it is committed to ensuring that basic telephone service is available and affordable to all who want it. The Department, therefore, will pursue public policies that ensure future availability and accessibility to the public switched telecommunications networks of all authorized providers by basic telephone service subscribers. At the same time, the Department will actively support the efforts of all market participants to increase the discretionary authority available to them to respond to changes in the marketplace in those circumstances where the Department believes the abilities of the industry to meet the financial and operational commitment to universal service will not be compromised.

G. The Need For Full Cost Of Service Studies

The participants in this proceeding generally agree that a comparatively high level of penetration for basic telephone service has been achieved in Connecticut. Implicit in that agreement is acknowledgment of the fact that the level of penetration has been achieved by the incumbent telephone companies without any participation by other authorized telecommunications services providers. Several participants in this proceeding have suggested that in satisfying universal service commitments previously established by the legislature and this Department, the telephone companies have pursued strategies that purposefully inflated the economic cost of meeting universal service goals and which, if left uncorrected, will result in a higher than required contribution from other authorized service providers in the future. These same participants suggest that this error must be recognized by the Department prior to determining the future funding obligations of prospective service providers to support universal service. This view seems to be at relative odds with that of some others in this proceeding who contend that little or no cost information is available to fully assess the impact of any changes to Universal Service and, therefore, a full cost study is warranted before the Department draws any conclusion with regard to the need for any Universal Service financial support mechanisms.

The Department recognizes the importance to all prospective market participants and to the public of conducting a full examination of basic service cost for each of the incumbent telephone companies. For that reason the Department has initiated and is currently conducting a series of cost of service proceedings: Docket 94-10-01, DPUC Investigation into The Southern New England Telephone Company's Cost of Providing Service; Docket No. 94-11-02, DPUC Investigation into the New York Telephone Company's Cost of Providing Service; and Docket No. 94-11-05, DPUC Investigation into the Woodbury Telephone Company's Cost of Providing Service (collectively, Cost of Service proceedings). These cost studies are essential to the Department's efforts to quantify any existent Universal Service contribution available to the incumbent providers, to determine the future requirements for such contribution and to de-link any

such requirement from the incumbent's rate structure so that all local service providers might participate in the Universal Service Program more equitably.

H. Funding For Universal Service Must Be Fair And Equitable And Represent The Full Value Of The Connecticut Market To Each Telecommunications Services Provider

Universal Service has been a central policy commitment of this Department and other regulatory agencies throughout the country for many years. In this proceeding, a number of participants have expressed conditional support for continuing those principles in the future. The generally expressed concern of the participants has been the scale of financial responsibility that must be borne by the participants if the Department determines that supplemental funding is necessary to preserve current Universal Service achievements. The range of views on this issue is broad, but virtually all participants express the opinion that, whatever method the Department employs for funding Universal Service, it must be fair and equitable. Proposals for ensuring such fairness and equity are seemingly limited as judged by the critiques of participants in this proceeding.

After reviewing the submissions in this proceeding, the Department has concluded that any application of financial funding to telecommunications services providers for purposes of preserving Universal Service achievements must be done in a manner that is fair and equitable and that represents the full value of the Connecticut market to each participant serving it. It is the Department's firm opinion that all telecommunications services providers, including the cellular carriers, PCS providers, and other wireless telecommunications service providers, must contribute to the funding for Universal Service.

As required by Public Act 94-83, the Department will determine the appropriate funding mechanism for the Lifeline Program in Docket No. 94-07-09, DPUC Exploration of the Lifeline Program Policy Issues.

Separate and distinct from the Lifeline Program docket, if the Department concludes in the Cost of Service proceedings that a subsidy for Universal Service exists and that such subsidy is essential to the preservation of Universal Service in Connecticut (recognizing that a different finding could be made in each of the respective LECs' Cost of Service proceeding), the Department will immediately initiate a docket to determine the funding mechanism (addressing both the collection and distribution of funds) for a Universal Service Program to ensure that all residents and businesses in the state, regardless of location, have access to affordable, high quality basic telecommunications services. Such a Universal Service Program fund would only be established if and when the Department determined that supplemental funding to that already available to telecommunications services providers and to the public is necessary. The Department, therefore, will not further define Universal Service funding mechanisms in this proceeding.

I. Uniform Responsibilities Associated With Universal Service Will Be Extended To All Local Service Providers

Public Act 94-83 envisions broad participation by all telecommunications services providers in satisfying the traditional duties, obligations and commitments of the incumbent telephone companies in exchange for the opportunities provided under the Act. The Department will not accept the premise that the legislature envisioned any statutory changes to the current competitive framework in Connecticut that would purposefully reduce the availability and affordability of basic telecommunications service or arbitrarily restrict the abilities of the public to express its right to choose. In fact, provisions of the statute prohibit any policy that would have such effect.

Some participants in this proceeding have suggested that the burden of responsibility for meeting the statutory commitments to Universal Service rests with only a chosen few. The general theme seems to be that the responsibility for Universal Service logically resides with the incumbent telephone companies because they have the technical infrastructure to best provide it. According to some participants, therefore, designating the telephone companies as the firms solely responsible for the achievement of universal service goals is both reasonable and fair.

While such arguments suggest both an Aristotelian logic and a degree of economic efficiency which this Department does not deny, the proposition that the Department pursue a discriminating Universal Service strategy which assigns only very limited responsibility to those other than the incumbent telephone companies lacks the necessary statutory support. A review of Public Act 94-83 fails to offer any suggestion that the legislature envisioned any delineation of responsibilities for Universal Service between incumbent telephone companies and other telecommunications services providers. See Conn. Gen. Stat. §§ 16-1(a)(23), 16-1(a)(24), 16-247a(b)(2), 16-247a(b)(3), 16-247a(b)(4), 16-247a(b)(5), and 16-247a(b)(6), as amended.

In Public Act 94-83 the legislature expressed its belief that differentiation should be made on the basis of services and not service providers. That view is consistent with the general positions taken in Docket No. 94-07-03, DPUC Review of Procedures Regarding the Certification of Telecommunications Companies and of Procedures Regarding Requests by Certified Telecommunications Companies to Expand Authority Granted in Certificates of Public Convenience and Necessity, in which participants repeatedly argued the need for this Department to accept currently certified providers as equally competent and capable to the incumbent telephone companies of providing a greater range of services to the people of Connecticut without any further qualification by this Department. Similarly, in Docket No. 94-07-01, The Vision for Connecticut's Telecommunications Infrastructure, and Docket No. 94-07-02, Development of the Assumptions, Tests, Analysis, and Review to Govern Telecommunications Service Reclassifications in Light of the 8 Criteria Set Forth in Section 6 of Public Act 94-83, several participants recommended to this Department that it seriously consider according prospective providers "co-carrier" status to that of the incumbent telephone companies. It appears to this Department that requesting such classification is an implicit recognition on the part of the proposing parties that no real differences exist

between incumbents and prospective participants in either fact or law. Yet in this proceeding, that is exactly what some parties seem to be suggesting.

In recognition of these facts, the Department concludes that the current provisioning responsibilities associated with Universal Service and incurred by the telephone companies (i.e., the obligation to provide basic telecommunications services to all who desire such services in the entire geographic area for which a local service provider is certified) must be extended to all providers of local service pursuant to the requirements of Public Act 94-83.

V. CONCLUSION

The Department has discussed herein Universal Service issues, including the potential impact that greater competition may have upon the goal of Universal Service. In the following section, the Department sets forth its findings and conclusions in this proceeding. Those, along with the body of this Decision, shall govern future Department strategies involving Universal Service.

VI. FINDINGS AND CONCLUSIONS

A. Findings

1. Public Act 94-83 includes among its goals "the universal availability and accessibility of high quality, affordable telecommunications services to all residents and businesses in the state." Conn. Gen. Stat. § 16-247a (a), as amended by Public Act 94-83.

2. Public Act 94-83 does not define "Universal Service."

3. Public Act 94-83 does not require that the Department supply a definition of "Universal Service."

4. A common working definition for the term "Universal Service" would be useful and beneficial.

5. The basic telecommunications service offering (and other offerings predicated upon it) will likely continue in the near future to be the most heavily subscribed service offering.

6. The basic telecommunications service offering is a meaningful achievement standard for measuring Universal Service penetration.

7. Basic telecommunications service is not a static service offering, but is, in and of itself, a dynamic and evolving set of technological capabilities.

8. Past regulatory strategies in Connecticut promoting Universal Service have been mutually beneficial for both the public and the industry.

9. Public Act 94-83 contemplates two programs to further its Universal Service goal: a Lifeline Program to be equitably funded by all telecommunications companies, "sufficient to provide low income households or individuals with a level of telecommunications service or package of telecommunications services that supports participation in the economy and society of the state"; Conn. Gen. Stat. § 16-247e (a), as amended by Public Act 94-83; and a Universal Service Program to ensure that all residents and businesses in the state, regardless of location, have access to affordable, high quality basic telecommunications services. Conn. Gen. Stat. § 16-247e (b), as amended by Public Act 94-83.

10. Establishment of a Lifeline Program is mandatory.

11. Establishment of the Universal Service Program fund is left to the Department's discretion.

12. Public Act 94-83 includes among its goals both Universal Service and broader participation in Connecticut's telecommunications markets.

13. Public Act 94-83 does not suggest that the legislature envisioned any delineation of responsibilities for Universal Service between incumbent telephone companies and other telecommunications services providers.

B. Conclusions

1. In this proceeding and the remaining proceedings established to implement the Public Act, and until such time as the Department deems it appropriate to conclude otherwise, the Department will recognize the basic telecommunications service offering, as defined in Docket No. 94-07-07, DPUC Investigation of Local Service Options, Including Basic Telecommunications Service Policy Issues and the Definition and Components of Basic Telecommunications Service, as a meaningful standard for measuring Universal Service penetration.

2. The Department reserves the right to review and revise in the future the composition of basic telecommunications service and the associated commitment of the industry to its universal deployment.

3. The current widespread availability of basic telecommunications services in Connecticut does not relieve the Department or the telecommunications industry from the responsibility of ensuring the preservation of and improvement to Universal Service in the future.

4. Universal Service and local competition are reasonably compatible goals.

5. The Department will conduct a series of cost of service proceedings which will fully examine the issue of basic service cost for each of the incumbent telephone

companies (Docket 94-10-01, DPUC Investigation into The Southern New England Telephone Company's Cost of Providing Service, Docket No. 94-11-02, DPUC Investigation into the New York Telephone Company's Cost of Providing Service, and Docket No. 94-11-05, DPUC Investigation into the Woodbury Telephone Company's Cost of Providing Service).

6. Any application of financial funding to telecommunications services providers for purposes of preserving Universal Service achievements must be done in a manner that is fair and equitable and that represents the full value of the Connecticut market to each participant serving it.

7. The Department will determine the appropriate funding mechanism for the Lifeline Program in Docket No. 94-07-09, DPUC Exploration of the Lifeline Program Policy Issues.

8. If the Department concludes in the Cost of Service proceedings that a subsidy for Universal Service exists and that such subsidy is essential to the preservation of Universal Service in Connecticut, the Department will immediately initiate a docket to determine the most appropriate funding mechanism (addressing both the collection and distribution of funds) for a Universal Service Program to ensure that all residents and businesses in the state, regardless of location, have access to affordable, high quality basic telecommunications service.

9. The current provisioning responsibilities associated with Universal Service and incurred by the incumbent telephone companies must be extended to all providers of local telecommunications services.

**DOCKET NO. 94-07-08 DPUC EXPLORATION OF UNIVERSAL SERVICE POLICY
ISSUES**

This Decision is adopted by the following Commissioners:

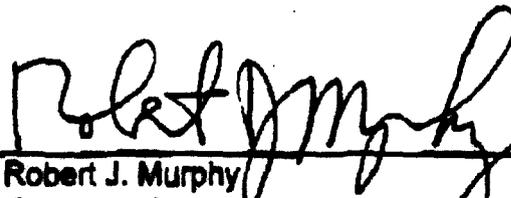
Reginald J. Smith

Evan W. Woolacott

Thomas M. Benedict

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.



**Robert J. Murphy
Executive Secretary
Department of Public Utility Control**

MAR 31 1995

Date



STATE OF CONNECTICUT

**DEPARTMENT OF PUBLIC UTILITY CONTROL
ONE CENTRAL PARK PLAZA
NEW BRITAIN, CT 06051**

**DOCKET NO. 94-07-09 DPUC EXPLORATION OF THE LIFELINE PROGRAM
POLICY ISSUES**

May 3, 1995

By the following Commissioners:

**Michael J. Kenney
Heather F. Hunt
Thomas M. Benedict**

DECISION

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DECISION

I. INTRODUCTION

On July 1, 1994, Public Act 94-83, "An Act Implementing the Recommendations of the Telecommunications Task Force" (the Public Act or Act), became Connecticut law. The Act is a broad strategic response to the changes facing the telecommunications industry in Connecticut. The technological underpinnings, the framework for a more participative, and ultimately more competitive, telecommunications market, and the role of regulation envisioned by the legislature are essential to the future realization and public benefit of an "Information Superhighway" in Connecticut.

At the core of the Public Act are the principles and goals articulated therein. Section 2 (a) of the Act provides in pertinent part:

Due to the following: affordable, high quality telecommunications services that meet the needs of individuals and businesses in the state are necessary and vital to the welfare and development of our society; the efficient provision of modern telecommunications services by multiple providers will promote economic development in the state; expanded employment opportunities for residents of the state in the provision of telecommunications services benefit the society and economy of the state; and advanced telecommunications services enhance the delivery of services by public and not-for-profit institutions, it is, therefore, the goal of the state to (1) ensure the universal availability and accessibility of high quality, affordable telecommunications services to all residents and businesses in the state, (2) promote the development of effective competition as a means of providing customers with the widest possible choice of services, (3) utilize forms of regulation commensurate with the level of competition in the relevant telecommunications service market, (4) facilitate the efficient development and deployment of an advanced telecommunications infrastructure, including open networks with maximum interoperability and interconnectivity, (5) encourage shared use of existing facilities and cooperative development of new facilities where legally possible, and technically and economically feasible, and (6) ensure that providers of telecommunications services in the state provide high quality customer service and high quality technical service.

Conn. Gen. Stat. § 16-247a (a), as amended by Public Act 94-83.

The central premise of the legislation is that broader participation in the Connecticut telecommunications market will be more beneficial to the public than will broader regulation. It is significant, however, that the Act does not chart a detailed plan for realization of its goals and compliance with its principles. Rather, the Act entrusts the Department of Public Utility Control (Department) with the responsibility of implementing both the letter and spirit of its important provisions; the Act thus endows