



**Attorney General
Betty D. Montgomery**

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April 11, 1996

APR 12 1996

Via Overnight Mail

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Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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

Dear Mr. Caton:

Enclosed please find the original and five copies of the **In the Matter of Federal-State Joint Board on Universal Service** in the above-referenced matter. Please return a time-stamped copy to me in the enclosed stamped, self-addressed envelope.

Thank you for your assistance in this matter.

Respectfully submitted,

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Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

APR 12 1996

FCC MAIL ROOM

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket 96-45
Universal Service)	
)	

EXECUTIVE SUMMARY

OF THE INITIAL COMMENTS OF THE STAFF
OF THE PUBLIC UTILITIES COMMISSION OF OHIO

The PUCO staff recommends that the FCC utilize a proxy methodology to define high cost areas and the requisite level universal service funding level for those areas. Regardless as to the methodology adopted by the FCC for its universal service support mechanism, the PUCO staff maintains that individual states should not be required to adhere to those identical parameters.

The PUCO staff recommends the list of eligible services be expanded consistent with the list of services proposed in these comments. Support for interstate universal service programs should be funded by all interstate carriers based on a portion of their total interstate revenues, less payments made to other interstate carriers for interconnection and access. The PUCO

staff further recommends that the Carrier Common Line Charge be billed to all interstate carriers in a manner similar, if not identical, to the support mechanism proposed for interstate universal service assistance.

Regarding the issue of federal universal service support for low-income customers, the PUCO staff recommends inclusion of the services and discounts consistent with those proposed within Ohio's local competition docket. The PUCO staff supports the provision of low-cost voice mailboxes to low-income customers maintain an access line at a permanent location. And while staff does not propose specific modifications to the federal Lifeline and Link Up America programs, it does urge the FCC to preserve, at a minimum, the level of federal funding currently available from these programs.

Finally, the PUCO staff petitions the FCC to preserve states' latitude in defining universal service assistance eligibility criteria. The PUCO staff recommends, however, that the FCC limit the disbursement of federal universal service funds only to those households earning at or below 150 percent of the poverty level.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Federal-State Joint Board on) CC Docket 96-45
Universal Service)
)

INITIAL COMMENTS OF THE STAFF
OF THE PUBLIC UTILITIES COMMISSION OF OHIO¹

The staff of the Public Utilities Commission of Ohio (PUCO staff) hereby submits its initial comments pursuant to the Federal Communications Commission's (FCC's) Notice of Proposed Rulemaking (NPRM) in CC Docket No. 96-45 (In the Matter of Federal-State Joint Board on Universal Service). Initial comments are due on or before April 12, 1996.

INTRODUCTION AND BACKGROUND

1. The comments filed in response to the FCC's NPRM in this docket take the form of staff comments, since the PUCO is unable to comment on these matters as it is currently considering similar intrastate issues. After formal adoption by the Commission, the PUCO will provide the FCC and the Joint Board, for their review and consideration, a copy of its final intrastate universal service decision.

On March 8, 1996, the FCC released its NPRM in the above-captioned proceeding. In its NPRM, the FCC proposes to implement Congressional directives set forth by the Telecommunications Act of 1996 (1996 Act). In particular, the FCC's proposal is intended to accomplish the following: define the services that will be supported by federal universal service support mechanisms, define those support mechanisms, and implement changes to its existing universal service rules to make them consistent with the new guidelines identified in the 1996 Act.

Additionally, Section 254(b)(1) of the 1996 Act requires that the Joint Board on Universal Service and the FCC shall base their policies concerning the preservation of universal service on the following principles:

- (1) Quality services should be available at just, reasonable, and affordable rates.
- (2) Access to advanced telecommunications and information services should be provided in all regions of the country.
- (3) Consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

- (4) All providers of telecommunication services should make equitable and non-discriminatory contributions to the preservation and advancement of universal service.
- (5) There should be specific and predictable federal and state support mechanisms to preserve and advance universal service.
- (6) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunication services.
- (7) The Joint Board and the FCC are permitted to determine if other principles are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with the 1996 Act.

DISCUSSION

What Services to Support

Section III. B. 1.

The FCC proposes a "core" list of services that will receive universal service support. This list includes: (1) voice grade access to the public switched network; (2) touch-tone; (3) single party service; (4) access to emergency services; and (5) access to operator services. Comment is requested on what additional services should be among the services receiving universal service support. The proposal notes that Telecommunications Relay Services (TRS) are not included within the list of services

because those services are already served by the existing TRS support mechanism.

The PUCO staff agrees with the FCC that the proposed list of core services are all appropriate services to receive universal support. The PUCO staff believes, however, the proposed list of core services should be expanded to also include the following additional services: (6) access to all available long distance carriers; (7) availability of residential flat-rate, unlimited service, to the extent it is widely available to other residential subscribers in the same area; (8) a white pages listing, plus a directory; (9) repair service to the network; (10) blocking for Caller ID, Auto Callback, 900, 976, and 976-like services, as well as toll restriction blocking; and, (11) ability to transmit data at a reasonable baud rate. The PUCO staff believes that this expansion of the list of services eligible for universal service support would be competitively neutral and would not serve as a barrier to entry by new competitors. This same list of services has also been proposed by the staff within the Ohio local exchange competition docket as the list of essential services that should be supported through the state universal service fund. Within that same docket, the PUCO staff also recommended a specific program for low-income customers that provides additional benefits for qualified low-income customers to be supported by the intrastate universal service fund.

Calculation of the Subsidy for Rural, Insular, and High Cost Areas
Section III. B. 2. b.

In order to determine what specific geographic areas should be eligible for universal service funding, it is necessary to identify areas where the cost of providing telecommunications service can reasonably be expected to be so high as to require explicit support for the preservation of universal service. Once a determination is made as to what constitutes affordable rates for the services designated for universal service support, a "benchmark" level of costs for providing those services is necessary to identify the amount of the subsidy. The FCC proposal seeks comment on methodologies for estimating those benchmark costs, specifically on the Benchmark Costing Model (BCM) which was jointly sponsored in this proceeding by MCI Communications, NYNEX, Sprint/United, and US West.

The PUCO staff believes embedded costs are inappropriate for use as a benchmark since they provide no incentives for recipients of funding to pursue efficient operations. We further believe an embedded cost methodology will violate the competitive neutrality goal of the 1996 Act by providing different levels of support to different providers.

The PUCO staff recommends a forward-looking, incremental cost methodology to identify proxy costs for use as benchmark costs.

We further believe that Census Block Groups (CBGs) are an appropriate and manageable level of disaggregation for developing proxy costs. Without endorsing any particular model, we believe the incorporation of population/household census data with Geographic Information System data on specific terrain characteristics is an appropriate way to capture the factors that cause high loop costs.

The PUCO staff makes no specific recommendation on the issue of what constitutes affordable rates for services designated for universal service support. Regardless of the methodology that is chosen by the FCC for the federal Universal Service Fund, the individual states should not be required to adhere to those identical parameters upon establishing its own intrastate universal support fund. Latitude should be given to the individual states to determine their policy goals and design the state universal service program that best achieves those goals.

Support for Low-Income Consumers

Section III. C. and D.

Many issues and corresponding requests for comment were raised by the FCC concerning universal service support for low-income customers. The PUCO staff limits its low-income comments to the issues set forth below:

- (1) Additional Core Services for Low-Income Customers;
- (2) Discounts and Waivers for Low-Income Customers;
- (3) Voice Mail Service for Non-Traditional, Low-Income Residential Consumers;
- (4) The Lifeline Assistance Plans and Link Up America;
- (5) FCC Lifeline Support Methodologies;
- (6) Defining Customer Eligibility; and,
- (7) Toll Blocking and/or Limitation Services.

In paragraph 50 of the NPRM, the FCC seeks comment on whether additional services, technical capabilities, or features should be specifically designated for low-income universal service support. Additionally, in paragraph 59 of the NPRM, the FCC asks whether such services and functionalities should be further discounted for income-eligible customers. Finally, in paragraph 57, the Commission addresses the issue of persons who, due to either homelessness or a particularly migratory lifestyle, are unable to maintain residential telephone service. Accordingly, the FCC requests comment on, among other things, any services that should receive universal service support for the benefit of such highly mobile individuals.

As previously mentioned, the PUCO staff has, within the Ohio local exchange competition docket, proposed its own core list of essential services that should be available to all end users at affordable rates. Within the same docket, staff also recommended

a specific program for low-income customers that introduces additional benefits for qualified recipients. Under this proposed program, low income assistance will be provided to income-eligible residential customers. Income-eligibility will be based upon a customer's participation in pre-designated federal and/or state low-income programs, the list of which will be periodically reviewed by the Commission to ensure its continued relevance and effectiveness. The benefits of staff's proposed low-income program take the form of certain discounts and waivers designed to help qualified recipients both obtain and maintain basic residential telephone service. The proposed discounts and waivers include the following:

- (1) Touch-tone and emergency services (9-1-1 and E9-1-1), where available, will be free of charge;
- (2) the toll restriction and blocking services included in the universal service minimum services list will be available at a discounted rate;
- (3) the deposit generally required to obtain new telephone service will be waived;
- (4) service connection charges exceeding \$5.00 for the establishment of telephone service will be waived;

- (5) the existing monthly federal subscriber line charge (SLC) will be waived; and,
- (6) monthly basic local access charges will be further reduced by an amount equal to the SLC.

As evidenced by the low-income benefits identified above, PUCO staff not only supports an expansion of the FCC's core list for all universal service recipients, but further advocates certain discounts and waivers for eligible low-income customers.

Regarding the FCC's inquiry as to services for the benefit of persons without residential telephone service, PUCO staff notes that the FCC itself proffers a number of possible services, including low-cost voice mailboxes. While staff is not prepared at this time to submit specific recommendations on this issue, it does support the concept of making voice-mail services available to low-income individuals that do not maintain an access line at a permanent residence, as such a concept is consistent with the overall goal of promoting universal service.

Beginning at paragraph 61 of the NPRM, the FCC discusses the two existing support mechanisms it provides for the benefit of low-income consumers: the Lifeline Assistance Plans and Link Up America. As noted by the FCC, states may choose to participate in either of two Lifeline Assistance plans. Plan 1 reduces a

subscriber's monthly telephone bill by an amount equal to the federal subscriber line charge (SLC), which is currently set at \$3.50. Under Plan 1, the monthly discount is subsidized in equal parts by federal contributions and matching state funds. The Lifeline Assistance Plan 2 offers greater assistance than Plan 1, but still requires equal contributions from state funds. Specifically, Plan 2 provides for the waiver of a telephone subscriber's entire SLC, up to the amount matched by state contributions. Presently, only California still employs Plan 1, while 37 states utilize Plan 2.

The FCC's other support mechanism for low-income consumers --Link Up America-- provides assistance with the upfront costs of establishing basic telephone service by paying half of the first \$60.00 of a subscriber's service connection charge. Unlike the Lifeline plans, the Link Up America guidelines do not require matching state contributions.

Finally, among the FCC's qualification requirements to receive either Lifeline or Link Up assistance is a provision that low-income subscribers must first meet a state-established means test to determine income eligibility.

In paragraph 59 of the NPRM, the FCC seeks commentors' input on possible methodologies for providing its low-income universal service support. Additionally, the Commission requests comment on

how it should define customer eligibility for such low-income assistance. And in paragraph 65, the FCC asks whether its Lifeline and/or Link Up America programs should be modified "as part of an overall mechanism to ensure that quality services are available at just, reasonable, and affordable rates for low-income subscribers."

Regarding the actual methodology by which benefits for low-income customers will be supported, the PUCO is still developing the details of its own low-income program, and is not currently prepared to recommend specific federal funding mechanisms within the context of this proceeding. Staff does believe, however, that customer eligibility should continue to be determined pursuant to the existing means test provisions. Moreover, staff urges the FCC to preserve individual states' latitude in defining the particulars of its own means test. Staff does recommend, however, that the FCC impose a threshold such that no households earning over 150% of the poverty level be permitted to benefit from federal universal service funds.

Finally, Ohio staff reserves comment on prospective modifications to the Lifeline and Link Up America programs; however, it does recommend that, at a minimum, the FCC maintain the existing level of low-income universal service funding currently available through these programs.

In paragraph 54 of the NPRM, the FCC discusses the significance of toll blocking and toll limitation services with respect to low-income universal service support. Specifically, the FCC suggests that these services may allow low-income customers to avoid involuntary termination of their access to telecommunications services and, as such, may warrant inclusion in the list of essential services receiving universal service support on the basis of low-income status.

PUCO staff does espouse the theory that toll blocking and/or limitation services can be beneficial in preventing involuntary disconnection of low-income customers and has, therefore, included discounted toll restriction and blocking for 900 and 976 calls as one of the benefits of its proposed intrastate, low-income universal service program. Furthermore, consistent with the belief that high toll charges contribute disproportionately to the disconnection of local exchange service, the PUCO staff has a recommendation pending before the Ohio Commission that the disconnection of local service for nonpayment of toll be disallowed (Case No. 95-790-TP-COI, In the Matter of the Commission Investigation Into the Disconnection of Basic Local Exchange Service for the Nonpayment of Charges Associated with Services Other than Basic Local Exchange Service).

Schools, and Health Care Providers

Section IV. B and C.

The FCC in Section IV of its NPRM requests comment on what core and advanced services should be made available to schools at a discount. Pursuant to the 1996 Act, these discounted services are to be available to schools serving kindergarten through the 12th grade.

Ohio has established and funded two major programs designated SchoolNet and SchoolNet Plus to achieve the goal of ensuring elementary and secondary schools have access to advanced telecommunications services. SchoolNet is a \$95 million initiative to bring the capacity for telecommunications and computer technology into every classroom in Ohio. Fifty million dollars has been targeted to wire all 100,000 classrooms in the state to support the transmission of data, voice, and video. This wiring infrastructure will provide equal access to the information highway for all students and teachers, and will encourage new ways of thinking, learning, and doing in our schools and classrooms. The remaining \$45 million on the SchoolNet funds will provide a DOS or Macintosh computer workstation and related technology for every classroom in 25 percent of Ohio districts who rank in the lowest 25% of the low wealth category.

SchoolNet Plus is an innovative program designed to integrate technology into the classroom for the purpose of improving the performance of Ohio's kindergarten through 4th grade students.

The program authorizes the expenditure of \$125 million during the 1996-1997 biennial budget and proposes another \$275 million for the 1998-1999 budget and for the purchase of one computer for every four students from kindergarten through the fourth grade in the state of Ohio. The funding also provides for associated hardware, application software, teacher training, and other support services determined necessary to bring the program on line.

Section 254(h)(1)(A) of the 1996 Act requires carriers to provide telecommunications service to "any public or nonprofit health care provider that serves persons who reside in rural areas" at rates that are reasonably comparable to rates charged for similar services in urban areas in the state. The FCC proposal requests recommendations on a methodology to determine whether a particular health care provider "serves persons who reside in rural areas" and to identify the "urban areas in that State" for purposes of establishing comparability of rates.

The PUCO staff does not at this time propose a specific methodology for differentiating between urban and rural areas for purposes of this provision of the Act. Whatever methodology is chosen, however, the PUCO staff recommends the FCC go beyond simply the geographic location of the health care facility itself for purposes of designating a rural health care facility. A facility may be physically located in an "urban" area, yet serve

primarily rural customers. The converse may also be true. In addition, health spas and other related health facilities may be located in rural areas but cater to a wealthier urban class. In order to ensure compliance with the intent of the Act that this section apply to health care providers serving "persons who reside in rural areas", adoption of a secondary criteria may be warranted. The PUCO staff recommends eligibility be tied to a demonstration that a significant constituency of the facility is in fact persons residing in rural areas. This could be accomplished by setting a threshold percentage of constituents that must reside in rural areas. We do not at this time have a specific recommendation for what that threshold should be, but are simply raising the issue for purposes of opining that the geographic location of the facility alone may not fully comply with the intent of the 1996 Act.

Universal Service Support Mechanisms

Section VII

The 1996 Act states that any federal universal support provided to eligible carriers should be explicit and should be recovered from all carriers that provide interstate telecommunications service on an equitable and nondiscriminatory basis. The FCC requests comment on how universal service support mechanisms should function.

The PUCO staff maintains that the FCC should establish a shared funding mechanism for the recovery of all costs associated with all interstate universal service programs similar to the interstate support mechanism established by the FCC, consistent with the Americans with Disabilities Act (ADA), for the interstate Telecommunications Relay Service (TRS) (CC Docket No. 90-571). Specifically, the PUCO staff recommends that the FCC establish a funding mechanism whereby each carrier providing interstate telecommunication services would be required to contribute an equal portion of its total interstate revenues to a universal service support fund. The PUCO staff recommends, however, that to prevent the double counting of carrier revenues, the FCC should exclude from each carrier's total revenue calculation payments made to other carriers for interstate interconnection and access-related charges. Carriers that would be required to contribute to this interstate support mechanism would include, for example, the following: commercial mobile radio service (CMRS) providers, local exchange companies (LECs), interexchange carriers (IXCs), competitive access providers, resellers, and satellite telephony service providers.

The PUCO staff submits that the interstate universal service support mechanism should be administered by a neutral third party, which would be selected by the FCC after taking into consideration the Joint Board's recommendation on selection. Whichever entity is selected, the PUCO staff maintains the FCC must ensure that

adequate funding is provided to support expenses associated with administration of the fund.

Other Universal Service Support Mechanisms

Section VI

The FCC further requests comment as to whether it is consistent with the 1996 Act to continue to assess the Carrier Common Line Charge (CCLC) to IXCs. Specifically, the FCC requests comments concerning whether such assessment of the CCLC is consistent with the directives of Section 254 of the 1996 Act, which requires that all universal service support flows be explicit and recovered on a nondiscriminatory basis from all carriers providing interstate telecommunications service. The CCLC is imposed upon IXCs only. The CCLC provides LECs a mechanism to recover costs for the local loop assigned to the interstate jurisdiction [i.e., 25 percent of the loop cost] over and above that which is not recovered by the subscriber line charge [SLC]). The CCLC also assists Regional Bell Operating Companies (RBOCs) in making long term support payments to independent LECs that do not recover entirely the interstate portion of their loop costs through the SLC and CCLC.)

The PUCO staff maintains that the CCLC does appear to be inconsistent with the 1996 Act in that it is not assessed to all carriers providing interstate telecommunications services on a

nondiscriminatory basis. In particular, the PUCO staff believes that the CCLC should, consistent with the 1996 Act, be recovered from all interstate telecommunication service providers, as opposed to just IXCs. The PUCO staff maintains, therefore, that the CCLC should be recovered through a mechanism similar, if not the same, to that identified above. In particular, the PUCO staff submits that the CCLC should be recovered through the universal service support mechanism proposed earlier in these comments. The PUCO staff believes that cost recovery for the CCLC (and long term support) should be in the form of a contribution from all interstate telecommunications service providers subject to the FCC's regulation. Each interstate provider should be required to contribute an equal portion of their total interstate revenues, less payments made to other carriers for interstate interconnection and access services, to the universal service support fund proposed above.

The FCC further requests comment on the continued appropriateness of Dial Equipment Minute (DEM) weighting assistance. (DEM weighting assistance provides additional support to LECs with less than 50,000 access lines through higher interstate access charges assessed to IXCs by these small LECs). If after the review of the comments in this proceeding and the comments submitted in response to the FCC's NPRM in CC 80-286 investigation (In the Matter of the Commission's Part 36 Rules and Establishment of a Joint Board), the FCC determines that DEM weighting assistance is necessary and

should be continued, the PUCO staff maintains that this support flow should also be funded by all interstate telecommunications service providers. Associated costs should be recovered through the universal support funding mechanism described earlier in these comments.

CONCLUSION

The PUCO staff recommends that the FCC utilize a proxy methodology to define high cost areas and the requisite universal service funding level for those areas. The PUCO staff further recommends the list of eligible services be expanded consistent with the list of services proposed in these comments. Support for interstate universal service programs, consistent with the 1996 Act, should be funded by all carriers providing interstate telecommunications services. The CCLC should be billed to all interstate carriers in a manner similar, if not identical, to the support mechanism proposed for interstate universal service assistance.

The PUCO staff recommends the FCC consider providing support for maintenance of broad band services for primary and secondary schools. Additionally, the PUCO staff recommends that the FCC further define a Rural Health Care Facility by requiring that a minimum percentage of its clientele be residents of rural areas.

Regarding the issue of federal universal service support for

low-income customers, the PUCO staff recommends inclusion of the services and discounts proposed within the Ohio local competition docket, and enumerated within these comments. Furthermore, PUCO staff supports the provision of low-cost voice mailboxes to low-income customers who do maintain an access line at a permanent residence. And while staff does not propose specific modifications to the federal Lifeline and Link Up America programs, it does urge the FCC to preserve, at a minimum, the level of federal funding currently available from these programs. Finally, the PUCO staff petitions the FCC to preserve states' latitude in defining universal service assistance eligibility criteria. Staff recommends, however, that the FCC limit the disbursement of federal universal service funds to only those households earning at or below 150 percent of the poverty level.

In closing, the PUCO staff wishes to thank the FCC for the opportunity to file comments in this docket.

Respectfully submitted,

The Staff of the Public Utilities
Commission of Ohio

By its Attorneys:

Betty Montgomery
Attorney General of Ohio
Duane Luckey, Section Chief

A handwritten signature in cursive script, reading "Steven T. Nourse", is written over a solid horizontal line.

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Dated: April 12, 1996