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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

GTE's COMMENTS

GTE Service Corporation and its affiliated domestic telephone operating companies

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SUMMARY

The Telecommunications Act of 1996 ("'96 Act") has given responsibility to the FCC to fashion a universal service program that is "specific, predictable and sufficient ... to preserve and advance universal service;" and that is "explicit and sufficient to achieve the purposes of [§254]." This means that the FCC, taking into account the recommendations of the Joint Board, must create a Federal support mechanism to ensure that basic telephone service is available at affordable prices to low-income individuals and to those more fortunate, and to provide funding for discounted telecommunications services furnished to eligible educational and rural health care entities.

GTE's universal service plan is in complete harmony with Congress' pro-competitive, deregulatory mandate, and provides a framework well suited to implementing the '96 Act. Specifically, GTE's plan:

1. relies upon a public policy decision that balances the desired outcome, and associated total amount of needed funding, with the burden imposed on contributors;
2. defines the "core" service to be supported;
3. incorporates an affordability threshold that brings a Federal universal service fund into play when costs cause prices to exceed such threshold;
4. provides explicit, necessary and appropriate support to telecommunications carriers found to be eligible and that preserve and advance the universal service principle of the `96 Act;
5. replaces implicit support contained within the prices of incumbent local exchange carriers ("LECs") by rebalancing prices on a revenue neutral basis using explicit support funded in an unbiased manner from contributions by all telecommunications service providers; and
6. initially establishes the "core" service cost based upon estimates derived from a cost model, and replaces those estimates with a bidding mechanism that would allow the market to determine the level of universal service support.

GTE supports the objective of making telecommunications-based education and health care services available to all parts of the nation. GTE and other incumbent LECs have played, and will continue to play, a vital role in interconnecting such entities to resource materials and to other education and health organizations. To facilitate realizing this goal, GTE proposes an administrative procedure for identifying and dispensing universal service support for eligible educational and rural health care entities that satisfies the requirements of the '96 Act, meets the FCC's managerial concerns, and enables the entire process to be implemented in an efficient and consistent manner.

The record in the FCC's CC Docket No. 95-115 proceeding clearly shows incumbent LECs offer many services useful to low-income individuals, and that incumbent LECs strike a reasonable balance between subscribership goals and prudent business practices. Therefore, the only needed FCC action is revision of the Lifeline Assistance Plan and Link Up America program to: (i) adjust the amount of universal service support to match affordability guidelines specifically aimed at low-income individuals; and (ii) eliminate reliance upon the Part 36 separations processes.

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GTE's COMMENTS

GTE Service Corporation and its affiliated domestic telephone operating companies ("GTE") respond to the FCC's Notice of Proposed Rulemaking and Order Establishing Joint Board (*"NPRM"*), FCC 96-93 (released March 8, 1996), seeking comment on proposals intended to implement the universal service requirements embodied within §254.[1]

DISCUSSION

I. INTRODUCTION

In its previous comments in CC Docket No. 80-286 (*"D.80-286"*), GTE presented a comprehensive approach to assuring universal service policy in a competitive environment.[2] The GTE plan provides a framework well suited to implementing the '96 Act.[3] Indeed, the main features of GTE's proposals are completely consistent with the essential elements of the '96 Act.[4] Further, a number of states, notably California, are now moving forward with universal service plans consistent with GTE's proposals.

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[1] Unless stated otherwise, all statutory references are to 47 U.S.C.

[2] *See* GTE's *D.80-286* Comments, October 10, 1995, and Reply Comments, November 9, 1995.

[3] §254(b). *See* Appendix A, which compares the requirements of the '96 Act with the proposals advanced in GTE's *D.80-286* submissions. GTE will refer to these principles *infra* in the context of specific elements of the proposed universal service policy. *NPRM* at ¶3.

[4] GTE agrees that, as an additional principle, the FCC should adopt a universal service policy that is as competitively neutral as possible, and that minimizes the distortion imposed on the competitive market. *NPRM* at ¶8.

II. GTE's PROPOSAL FOR AN EFFECTIVE AND EFFICIENT UNIVERSAL SERVICE PLAN.

1. GTE agrees a "core" service definition is necessary; and suggests a workable approach to periodic review.

GTE agrees that the FCC must establish a "core" service definition pursuant to §254(c)(1). *NPRM* at ¶15. The "core" service should include: (1) residence voice grade access to the network with the ability to place and receive calls;[5] (2) touch-tone; (3) single party service; (4) access to emergency services, such as 911;[6] and (5) access to operator services.[7] *NPRM* at ¶16.

GTE does not recommend that usage of interstate long-distance service should be included within the "core," or that the cost of such usage should be funded. The "core" service should include the ability to originate and receive interstate calls, and any firm obtaining universal service funds in a given area should be subject to the same requirements with respect to access to interstate long distance services that the FCC applies to the incumbent LEC in that area. *NPRM* at ¶23.

It is clear under the '96 Act that the definition of "core" service will not include "advanced services," because, among other reasons, such services have not yet been adopted by a "substantial majority of residential customers." *See* §254(b)(6); §254(c)(1); and §254 (h)(2). Including them would conflict with the intent of the statute, would greatly increase the level of funding required, and would not be in the public interest, because such a market intervention would bias the market's choice of the best services,

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[5] Business customers should not be supported by the new Federal universal service plan. *NPRM* at ¶24. Also, for practical reasons, the plan should not attempt to exclude a second line to a residence, because it cannot be feasibly distinguished from a line provided to a second household at the same address.

[6] Only the ability to access a 911 or E911 bureau should be included in the core definition. The non-network costs to provide either 911 or E911 should continue to be supported through existing public safety funding mechanisms. *NPRM* at ¶23.

[7] While these features are used by a "substantial majority" of residential customers, not all features are ubiquitously available today. A transition plan will be needed to meet these standards nationwide. For example, locations where the transition to single party service has not yet been completed should continue to receive support for party line service.

technologies, and providers.[8] Rather than attempt to lead the market, universal service policy implementing §254 should extend the availability of services the market has already ratified.

As required by §254(c)(1) and (2), the definition of "core" service will be reviewed periodically. In California, GTE has proposed a framework for such review, which the California PUC has included in its proposed rules.[9] This flexible plan provides that a review be undertaken no more frequently than every three years. As the *NPRM* (at ¶67) recognizes, too-frequent review will entail "unnecessary expenditure of resources." Some stability in the definition is also necessary to permit eligible telecommunications carriers ("*Eltels*") -- as defined under §254(e) and 214(e) -- to plan their network investments efficiently over time. Parties seeking to amend the definition can petition the FCC to add a new element if three years have passed since the last review; such a petition would have to include a showing that the proposed element meets the statutory criteria. The FCC could also set a maximum interval, such as five years, after which it would undertake a review if no such petition had been acted upon. For a new element to meet the "public interest" criterion of the '96 Act, the FCC should find that including the element creates a public benefit that outweighs the burden on contributors associated with the needed funding. This does not preclude a state from going beyond the Federal definition; but the state would have to accept responsibility for providing the necessary funding. *See* §254(f).

GTE agrees with the *NPRM* (at ¶67) that adopting any new reporting requirements at this time would be unreasonably burdensome. If the FCC needs information to evaluate a new feature, it should gather such data at the time it undertakes a periodic review. However, if the FCC does adopt any new reporting requirements, these should apply equally to all *Eltels.*

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[8] The *NPRM* at ¶17 expresses concern that the definition should not favor one technology or provider over others.

[9] *NPRM* at ¶67. *See also*, "Universal Service Report to the Legislature," California Public Utilities Commission, December, 1995, at 11.

2. The Federal plan should consider the total "core" service, not just the interstate portion.

The '96 Act does not restrict the FCC and the Joint Board to considering only an "interstate" portion of the defined "core" service in developing the Federal mechanism for universal service support. This is shown by the fact that the '96 Act does not change §410 except for providing for a consumer representative under §254(a)(1). The powers and jurisdiction of the FCC concerning universal service -- assuming it has properly sought the recommendation of the Joint Board -- are at least as great as they were before passage of the '96 Act. And under the prior law, the interstate Universal Service Fund ("USF") effectively funded intrastate (local) service through jurisdictional cost-shifting, a process well known to Congress. Moreover, the responsibilities specifically assigned to the FCC/Joint Board by §254 are broad, going far beyond merely funding support for interstate services.

The FCC is instructed broadly to define the "core" service, and to take effective and sufficient measures that ensure that the rates for the service are "affordable" and "reasonably comparable" across areas. The FCC can fulfill this broad mandate only by establishing a framework based on the total rate and cost of the service. Nothing in the '96 Act confines the FCC so it may only act on the interstate portion of the rate; it is well known to Congress that most of the rate a subscriber pays for "core" service is intrastate in nature. Further, FCC/Joint Board action has long carried out the will of Congress -- not changed by the '96 Act -- that the core service, whether interstate or intrastate, should be supported as appropriate to the ultimate objective. Only a framework based on the total service can allow the FCC to determine whether support has been made "explicit and sufficient" to achieve the purposes of §254(e).[10]

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[10] Indeed, if there were no inter-jurisdictional issues to be dealt with in creating the new Federal plan, there would have been no reason for Congress to require that a Joint Board be established to develop recommendations to the FCC. It is characteristic of the '96 Act that, far from segregating Federal and state power and Federal and state concerns, the statute interweaves these powers and concerns. Congress knew how to separately address Federal and state functions when it wished to do so, as evidenced by §254(h)(1)(B), §254(f) and §254(k). Where no similar division appears, as in the remainder of §254, the fair conclusion is that Congress did not intend to fragment Federal and state authority.

In recommending that the Federal plan be based on the defined "core" service as a whole, GTE does not suggest that the Federal plan must provide all the funding needed to support that service. The FCC and the Joint Board, in cooperation with state authorities, should determine what overall support requirements are needed to achieve the objectives of the statute. A policy judgment may then be made as to how much of this requirement should be funded by a Federal plan, and how much should be left to state plans.[11] This policy judgment, rather than the current jurisdictional separation of cost, should determine the size of the Federal support mechanism. The parameters of the Federal plan that drive the total size of the fund needed for implementation of the `96 Act's mandates can then be set to adjust the Federal plan to the desired dimensions -- always remembering the statutory mandate that the plan must be "sufficient."[12]

3. The FCC/Joint Board's universal service plan should set out the guidelines under which an *Eltel* that preserves and advances universal service will receive an appropriate level of support.

§214(e)(1) enumerates certain requirements a telecommunications firm must fulfill if it seeks to be an *Eltel*. It must offer the "core" service throughout the serving area, and must advertise the availability and rates for such service. However, the `96 Act does not preclude a state from establishing additional regulatory requirements for these carriers, so long as they are not inconsistent with the `96 Act. §253(b). Further, it would be a grave misinterpretation of the statute to assume an *Eltel* that does not preserve and advance universal service will receive any funds at all.

Congress has given responsibility to the FCC/Joint Board to fashion a program that is "specific, predictable and sufficient ... to preserve and advance universal service;" and that is "explicit and sufficient to achieve the purposes of [§254]." §254 (d) and (e) Further, it said the FCC/Joint Board must base it's "policies for the preservation and advancement of universal service" on various principles, including,

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[11] GTE proposes that the Federal plan should generate sufficient funds to: (i) remove implicit support from interstate access charges; (ii) contribute to the reduction of some intrastate rates; and (iii) fund discounts for eligible educational and health care entities.

[12] The '96 Act three times states the requirement that the plan adopted must be "sufficient." *See* §254(d), §254(e), and §254(b)(5), discussed *infra*.

"There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service." §245(b) and §254(b)(5).

An *Eltel*, for example, may in theory offer "core" service throughout a service area, but may in fact quote high prices to customers it does not wish to serve. Providing support to such firms would defeat the Congressional intent because it would not advance universal service. In creating an effective and sufficient plan, the FCC -- always giving consideration to Joint Board recommendations -- must connect the payment of universal service support to actions and offerings on the part of the local service provider that will promote universal service.

This should include an appropriate role for each state -- the suitable party to specify the obligations that *Eltels* must undertake to merit receiving support.[13] Guidelines in the Federal plan should make it a condition for Federal funding that state agencies apply the same obligations in the same way to any and all *Eltels* that receive Federal universal service funds, whether incumbent LECs or not. This is the only way that universal service policy can be competitively neutral.[14] For example, if the state establishes a rate ceiling for the incumbent LEC in a given serving area, then the Federal plan would require that the state, as a condition of receiving Federal support, impose the same ceiling upon any other *Eltel* seeking to obtain support.

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[13] The word "eligible" itself indicates that the party determined to be eligible has succeeded in only the first step of a selection process involving at least two steps. This is born out by dictionary definitions. The American Heritage College Dictionary defines "eligible" to mean: "1. Qualified or entitled to be chosen. 2. Desirable and worthy of choice...." Webster's Encyclopedic Unabridged Dictionary of the English Language defines "eligible" as: "1. fit or proper to be chosen; worthy of choice; desirable: *to marry an eligible bachelor.* 2. legally qualified to be elected or appointed to office: *eligible for the presidency....*"

[14] On competitive neutrality, *see, for example,* §254(h)(2).

GTE suggests that the task of monitoring *Eltels* and enforcing performance of their obligations rests in the first instance with the states.[15] *NPRM* at ¶43. Further, under GTE's plan, no additional measures are needed to ensure that *Eltels* use support only for the intended services, because payment of support, tied to the performance of the obligations established for *Eltels* by the state, is just sufficient to compensate the *Eltel* for that performance. *NPRM* at ¶41.

4. The Federal plan should seek to achieve a specific level of end user prices.

The *NPRM* (at ¶24) asks whether support should be based on outputs (the price of the "core" service), or on inputs (the cost of the service). GTE recommends the Federal plan seek to achieve a specific level of end-user prices. *NPRM* at ¶26. This is the only way the FCC can meet its obligation under the '96 Act to assure that rates are "affordable" and that rates in rural areas are "reasonably comparable" to those in urban areas. §254(b).

A universal service plan should be designed to assure that the "core" service is made available throughout each service area at a price that does not exceed affordability guidelines established by the FCC -- taking into account Joint Board recommendations. The price of the "core" service has traditionally been set by the states, and the '96 Act does not disturb this long-standing practice; however, the FCC and Joint Board have now been charged with establishing a policy that will be effective and sufficient to ensure that rates are affordable (*i.e.*, related to end user needs and means).

GTE suggests that the Federal plan should include two threshold rate levels that trigger the availability of funding for the "core" service.[16] The first threshold should be the desired maximum rate level. Costs that would lead to prices exceeding this threshold should trigger a combination of state and federal

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[15] There is no need for new Federal quality monitoring activities or "performance-based measurements" inasmuch as: (i) quality standards should be part of the obligations established by the state agency for receipt of support; (ii) state agencies already have a wide variety of service quality criteria and measurement mechanisms in place; and (iii) the ARMIS 43-05 report already provides service quality information to the FCC. *NPRM* at ¶4

funding to maintain the affordable level. However, if costs cause prices to exceed a second threshold at a higher level, the federal plan alone would provide funding. This second threshold is necessary to avoid undue burdens on contributors in states with higher costs and limited funding sources.[17] Each guideline could be established as a percentage of median family income or expenditure.[18]

A "core" service rate in a given area should be found to be "reasonably comparable" to rates in other areas if it does not exceed the national affordability guideline. The '96 Act does not require that rates be exactly equal between rural and urban areas, or to be geographically averaged, in order to be "comparable."

5. Initially, Federal support should be based on comparison of a cost measure to the imposed rate ceiling; later, under GTE's plan, this would be superseded by a bidding process.

Support for *Eltels* should be based on the market intervention imposed on the *Eltels* that serve as a Carrier of Last Resort ("COLR").[19] This would be measured by the difference between any rate ceiling imposed and the rate the COLR would otherwise set in a competitive market.[20] GTE proposes that this rate intervention be estimated by comparing a measure of the cost of service with the rate ceiling. Where the rate ceiling is less (*i.e.*, where the regulatory constraint is binding), the support should fund the difference. Once other carriers enter a given market, and are willing to become COLRs subject to an

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[16] Both threshold levels should incorporate automatic inflation adjustments, both to prevent the effect of support from being diluted over time, as has happened with the frozen End User Common Line "(EUCL") charge, and to avoid future concerns regarding growth in fund size.

[17] Appendix B provides a state-by-state comparison of estimated per-household loop costs and retail telecommunications revenues upon which a surcharge could be applied. There are twelve states with higher than average loop costs and lower than average retail telecommunications revenues.

[18] These rate guidelines could vary by area. Although it is generally difficult to match a rate guideline to income in small areas, it may be reasonable to allow the rate threshold to vary by median family income by state.

[19] GTE defines the term COLR to mean an *Eltel* that undertakes obligations established by a state agency, within Federal guidelines, as a condition for receipt of Federal universal service support.

[20] Support should also compensate the COLR for any non-price requirements, such as quality standards, to the extent that these are binding. The bidding process discussed *infra* would capture the value of any market interventions the bidders themselves find relevant.

identical set of requirements, then a competitive bidding process should replace this cost-based comparison to determine the support amount.

The *NPRM* (at ¶¶31-33) seeks comment on proxy cost models that would be available for use in developing a cost measure. As noted *supra*, the objective of universal service policy should be to compensate the COLR to the extent of the market intervention applied to its local service rate. The purpose of the cost measure, therefore, is to serve as a basis for estimating what the local service rate would be in a competitive market. The difference between this market rate and the required rate -- if any -- should be funded. This means that the cost measure should represent the average level of compensation the incumbent LEC would expect in a competitive market, including a market-determined level of contribution toward shared and common costs.

GTE proposes that a markup should be applied to the direct costs estimated for the "core" service to represent the market level of contribution toward shared and common costs. This could be developed by calculating the uniform markup that would be required across all of the LEC's major service categories to match the LEC's total revenues. This process would be analogous to the uniform overhead loading employed under the FCC's new service rules today.[21]

The cost measure should be estimated, and support calculated, for small units of geography. GTE suggests that a unit smaller than a wire center is necessary, since the evidence from existing models indicates an order-of-magnitude variation in cost within many wire centers. GTE supports the use of Census Block Groups ("CBGs") as a reasonable geographic unit for purposes of identifying a support

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[21] If anything, the proposed uniform markup would produce a conservative estimate of the market price for the "core" service. Most demand studies have found the elasticity of demand for local service to be relatively low; if the market determines contribution on a Ramsey basis, it is likely that local residence service will have a higher markup than most other services.

need.[22] *NPRM* at ¶34. The use of small geographical units will best allow the Federal plan to target support to areas with high cost, and will send more accurate price signals to potential new entrants.[23]

The *NPRM* (at ¶32) seeks comment on whether a proxy cost model can be made technology-neutral. GTE's *D.80-286* submissions have previously discussed why it is not reasonable to expect a proxy cost model to represent all possible technologies or network arrangements. The bidding process proposed by GTE obviates this concern, since it would automatically incorporate bidders' own estimates of their costs, and avoid the need for regulatory agency review of cost estimates.

6. GTE's bidding process, which fits the overall intent of the '96 Act and would make the outcome hinge on economic reality as actually estimated by the parties, could provide for a winner's preference.

The *NPRM* seeks comment (at ¶¶35-37) on whether the use of a competitive bidding process to determine support is consistent with §214(e), which addresses the certification of *Eltels* by the states. As GTE has explained *supra*, the FCC -- acting on Joint Board recommendation -- may establish the parameters under which *Eltels* that participate in furnishing universal service will receive support relative to their involvement in providing universal service. Thus -- as necessary to assure an effective plan -- the FCC may establish the condition that an *Eltel* desiring support must participate in an auction under prescribed circumstances, and must make certain specific commitments. The auction process proposed by GTE would allow more than one carrier to participate in an effective universal service program.

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[22] A model recently developed by Pacific Bell uses still more detailed geographic information. If data of this kind can be reliably obtained, they may be useful for several purposes. First, they could be used to subdivide large, very low density CBGs for which the assumption of uniformly distributed households may not produce good results. Second, they could be used to split CBGs served by more than one LEC today. Third, they could be used in the administration of the fund, which would require each COLR to report to the fund administrator how many customers it serves in each CBG. *NPRM* at ¶33.

[23] Use of a small geographic area makes academic consideration of changes in the definition of study area. *NPRM* at ¶45. The Federal plan should allow "Rural Telephone Companies" ("RTCs") to continue to receive funding calculated on a study area basis. RTCs should have a one-time option to transfer to the new mechanism established through this proceeding, and to calculate support on the basis of small geographic areas. This would not, in itself, require a change in the study area definition, and GTE does not recommend such a change.

GTE urges the FCC to make provision for a competitive bidding process in its Federal plan, since bidding would provide a far better, and market-based, approach for determining the amount of support. This would make the outcome hinge on economic reality as actually estimated by the parties involved in the bidding process. It would also be more consistent with the overall intent of the '96 Act to maximize reliance on market forces and to minimize regulation. Further, bidding furnishes a sound approach to reducing the amount of support over time; as the *NPRM* (at ¶35) recognizes, it would "harness competitive forces to minimize the level of high-cost assistance."

GTE's auction proposal would eliminate the need to modify a cost model over time in order to reflect changes in technology, or to accommodate changes in the definition of "core" service, or to apply incumbent LEC technology to other carriers. It would also capture any non-price considerations that would affect a carrier's decision to serve as a COLR -- something a cost model cannot do.[24]

As the *NPRM* (at n.84) recognizes, bidding cannot take place until competitors enter the market and are willing to become COLRs in a given area. GTE has proposed a flexible approach that would set the initial level of support based on cost. Bidding would be introduced in each area as competitors enter at their own initiative and nominate areas for bidding. The plan allows this flexibility, and permits the use of a great number of small geographic areas, yet will be reasonable to administer because it would group the bidding for all areas nominated in a given year within pre-announced bidding cycles.[25]

The *NPRM* (at ¶36) proposes that a winner's preference, or "incentive bonus," could be provided to the lowest bidder in an auction as an incentive to bid aggressively. GTE has developed approaches to assure that participants in an auction do bid aggressively; one of these approaches includes a winner's preference. Under GTE's proposal: First, bidders in the auction would be subject to activity rules that would require each participant to continually advance its bid in each round in order to participate in

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[24] These considerations might include the burden on the carrier of any requirements the state may impose, as well as the benefits of any complementarity of demand or cost with other services the carrier may provide.

subsequent rounds. This means any bidder that "stood pat" would be required to drop out of the bidding. Second, in order to be retain the right to "opt-in" to a COLR designation, a participant would have to submit a bid in the final round of the auction that fell within a pre-specified range of the winning bid. This would force each participant to advance its bid to avoid being left outside this range by another bidder. These two measures will ensure active bidding.

To furnish an additional incentive to bid aggressively, the auction administrator could announce in advance a limited number of "winners," perhaps chosen as a function of the total number of bidders. Bidders would strive to be among the winning group. Each of the "winners" would receive the same level of per-customer support. If any prospective COLRs had submitted final bids within the specified range, but had been excluded by not being among the "winners," a secondary auction could be held to select additional COLRs. The starting point for this second auction would be a support level below the amount determined in the first auction. The second auction would thus serve to determine the level of the "winners' preference."

GTE proposes that the Federal plan provide for state administration of the auction process, within Federal guidelines, in order to ensure that each COLR selected will be able to receive universal service support under both Federal and state regimes. Responsibility for funding the support determined by the auction could then be divided between the state and Federal mechanisms in the same proportion as the cost-based support had previously been divided.

7. The Federal universal service plan should not be driven by separations rules.

GTE shares the concern stated in the *NPRM* (at ¶30) that the current Part 36 separations process does not provide a sound basis on which to determine the size of the Federal support mechanism. As the *NPRM* observes (*id.*), a separations-based approach may not be consistent with Congress' intent "to provide for a pro-competitive, de-regulatory national policy framework." Entities other than LECs are not

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[25] *See* Appendix C for a description of GTE's proposed bidding process submitted in *D.80-286.*

subject to the FCC's separations rules today -- nor should they be. If anything, the importance of separations to the regulation of the LECs should decrease over time, since the FCC and many states have adopted price cap regulation, and because the growth of competition should reduce the need for regulation.

A forward-looking universal service policy for a competitive environment should not be separations-driven. If the Federal fund were to be based only on the magnitude of costs assigned to the interstate jurisdiction today, the Commission would not be able to carry out its obligation to ensure that rates are "affordable" nationwide, and that rates in different areas are "reasonably comparable," and that the universal service support program is "sufficient." Moreover, the need for universal service funding varies widely from one state to another, as does the base of intrastate telecommunications providers available to contribute to a state fund. If each state were isolated, so it bore by itself the responsibility for funding the costs assigned to its jurisdiction by the current separations process, there would be some states that would simply not have the resources to comply with the Congressional mandate for affordable and comparable rates.[26] To ensure that the objectives of §254(b)(3) are met, the FCC and Joint Board must design the Federal plan to provide a limited transfer of funding from states with lower funding needs to those with higher needs.

GTE endorses directing universal service support to the appropriate jurisdiction. Funds that are to be used for offsetting reductions to interstate rates should be directed to the interstate jurisdiction; funds that are to be used for offsetting reductions to intrastate rates should be directed to the state jurisdiction. This process would be analogous to the adjustment process used for USF funding today. *NPRM* at ¶28. Under this approach, the separations process would not determine the level of Federal funding, but would

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[26] *See* n.17 *supra.* In order to comply with the Congressional mandate, the FCC/Joint Board should select a Federal plan whose parameters are chosen to provide sufficient funding to eliminate implicit support from interstate access elements, and to furnish appropriate funding to high-cost states in order to offset intrastate rates that would otherwise have to generate implicit support. GTE will discuss *infra* the application of Federal funding to allow offsetting rate reductions.

simply conform to funding decisions made on a total service basis. Funding would be distributed in a competitively neutral way to all *Eltels* that advance to universal service as contemplated by the plan. Incumbent LECs would then make separations adjustments as needed; and new LECs -- then as now -- would not have to concern themselves with the separations process.

8. As directed by Congress, universal service funding must replace implicit support with explicit and sufficient support.

The support for universal service implicit within incumbent LEC rates for access, toll, local business services, and vertical services, is inconsistent with the requirement of §254(e) that support for universal service be explicit. This Congressional mandate requires the instant FCC/Joint Board process to create explicit universal service support to replace today's implicit support. As Chairman Hundt recently observed: "Right now, we transfer money all over.... It's not efficient; it's not rational; it ought to be fixed."[27]

To ensure that the new Federal plan is revenue neutral, and that it does not provide a windfall to LECs, new explicit funding must be applied toward reductions in rates for services that provide implicit support today.[28] This process of price rebalancing must occur simultaneously with implementation of an explicit universal service support program. Thus, there is a pressing need for the FCC and state regulatory agencies to link decisions in the instant docket to a process of reform of interstate access charge rules and revisions to intrastate pricing structures. Unfortunately, the *NPRM* does not deal with these issues.

The *NPRM* (at ¶¶112-115) seeks comment on proposals to reduce or eliminate the current interstate carrier common line charge ("CCL"), and to fund these reductions through increases in the cap on the interstate EUCL charge. GTE supports eliminating the CCL.[29] However, any changes in EUCL rates should not be made on a uniform basis across all areas. The record in *D.80-286* makes it clear that

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[27] "Hundt Outlines Goals Of Universal Service Joint Board, Stresses Telecom Act Proceedings Should Be Nonpartisan," Communications Daily, April 12, 1996.

[28] For LECs that receive USF today, the offsetting rate reductions should be based on the net change in support caused by the new plan. For non-LEC *Eltels*, no offsetting reductions will be required, since these carriers do not provide implicit support through their rates today.

loop costs vary dramatically from one small geographic area to another. Therefore, any adjustment to EUCL rates should be made on a geographically deaveraged basis, using small geographic areas such as CBGs.

The *NPRM* (at ¶114) also suggests that an upper limit be placed on these new EUCL rates, and that common line costs in high cost areas not recovered by EUCLs should be offset by high cost funding. In this *D.96-45* proceeding, USTA will propose a plan that would deaverage EUCLs, and provide funding for the difference between a new, higher EUCL cap and the interstate common line cost in each small area. GTE supports an increase in the level of the EUCL. Further, GTE supports this USTA proposal as a way of applying a portion of the funding generated by a new Federal plan toward rate reductions in interstate common line rates.

However, GTE does not agree that a new Federal plan should focus entirely on a single interstate access rate element. The requirements of the '96 Act go well beyond ensuring that interstate EUCLs do not exceed a given level. For reasons discussed *supra*, the new Federal support mechanism should not be tied exclusively to a single LEC rate element; nor should it be driven by the separations process.

GTE proposes that the Commission should establish a more general procedure to apply Federal universal service funding for incumbent LECs toward offsetting reductions in rates that are generating implicit support today. These reductions should be made in interstate access rate elements, such as the CCL charge. GTE's proposal would therefore subsume the USTA proposal for common line charges. However, funding could also be used to reduce other interstate access elements that are providing implicit

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[29] As the CCL is eliminated, perhaps through some transition period, the need for Long Term Support to equalize CCL rates for NECA pool companies will also be eliminated. *NPRM* at ¶115.

support today.[30] These could include the current transport interconnection charge ("RIC"), and local switching rates. These reductions should be coordinated through an access reform proceeding.

It is also reasonable that Federal funding should be applied toward offsetting reductions in intrastate rates for services that are providing implicit support today. The need for such funding is likely to be greatest in those states which combine high costs and low intrastate funding bases, as shown in Appendix B. In such states, the funding provided to COLRs by the Federal fund is likely to exceed the amount that would be needed to eliminate implicit support from interstate rates. The Federal plan could establish certain guidelines for use of Federal funding for this purpose. For example, the state could be required to have implemented its own explicit fund to support "core" service rates where costs exceed the lower of the two national rate guidelines discussed *supra*. The guidelines could also ensure that Federal funds are used to reduce rates that are generating implicit support today, such as state access and toll rates.[31] Where Federal funds are used to offset state rates, a corresponding adjustment should be made in the separations process, as is done under the current USF plan.

9. As a competitively neutral mechanism to support universal service, GTE proposes a single uniform surcharge applied to all end user transactions.

The Commission must establish a competitively neutral mechanism through which all telecommunications common carriers contribute to the Federal universal service support mechanisms that provide funding for "core" telephone services, as well as for "advanced" services and discounts furnished to educational and health care agencies. GTE proposes that funding should be obtained on the basis of a single, uniform surcharge applied to all end-user transactions.

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[30] A component of existing incumbent LEC prices that must also be recovered on an explicit basis is the cost caused by past regulatory intervention in depreciation practices. Incumbent LECs must be permitted to recover the costs of their embedded networks that were constructed in good faith with the expectation of eventual recovery. This program should be separate from any ongoing support for COLRs.

[31] Specific reductions should be proposed by the incumbent LEC and accepted by each state. Rate design issues will vary widely across the states.

§254(d) requires providers of interstate telecommunications to contribute to the funding of Federal universal service mechanisms. The statute does not restrict the basis for determining these contributions to interstate demand units or revenue alone. If, as GTE proposes, the Federal plan is based on the entire "core" service on a non-jurisdictional basis, and used to fund offsetting reductions in both state and interstate rates, then the basis for funding should be all end-user retail revenue, both state and interstate.[32] This approach will provide the largest possible funding base, the lowest possible "rate" for the surcharge, and hence the least distortion in customer behavior.

Further, as new firms enter the market, and as the rates of the incumbent LECs are less closely regulated, it will become increasingly difficult to identify interstate revenue separately. An interstate-only surcharge may also create incentives for gaming and arbitrage. The use of total retail revenue, both state and interstate, will be simpler and more efficient.

A surcharge on retail revenue will meet the requirements of the '96 Act more effectively than the other funding approaches discussed in the *NPRM* (at ¶¶122-124). In order to be competitively neutral, and structurally neutral, a funding mechanism should avoid double-counting wholesale transactions. The current TRS method does not satisfy this requirement. While the resulting distortion may be tolerable in a relatively small fund, such as TRS, it would not be satisfactory in a mechanism large enough to support the requirements of the '96 Act. Double counting of wholesale transactions unfairly burdens services produced with significant inputs purchased at wholesale, and creates an uneconomic incentive to eliminate the wholesale transaction by self-supplying the input. The proposed retail surcharge provides a simple and easily administered way to avoid such double-counting.

The surcharge proposed by GTE is also clear, explicit, and uniform across all services. Retail customers would actually see, in a line item on their bills, how much they are contributing to universal service. A "net revenue" approach would not make the contribution explicit, but would continue to bury it in

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[32] If, however, the FCC chooses to limit the Federal plan to funding service on a strictly interstate basis,

the rates customers provide for service. A retail surcharge would also ensure that the contribution is uniform across providers, and across services. The retail customer could not affect this contribution by changing suppliers, or by changing the mix of services purchased. Because of this, the surcharge approach would minimize the effect of the contribution on the customer's purchase decision. A net revenue method, under which the carriers would have to recover their contributions through their service rates, would not have this property, since such recovery is unlikely to be uniform across all service rates. Further, since the surcharge would create an automatic mechanism for generating each carrier's contribution, it would ensure that the full amount of the funding provided to LECs would be available for offsetting reductions in rates generating implicit support today.

Finally, as the *NPRM* (at ¶124) itself recognizes, it would be impossible to establish a contribution method based on demand units, such as minutes or lines, that was competitively and technologically neutral. Since carriers would provide service in different units, equivalency formulas would have to be applied; these would inevitably favor some carriers over another. The retail surcharge approach assures, as a demand-based system cannot, that every time a customer spends a dollar on telecommunications, a given percentage of that dollar will go to support universal service. This will be true regardless of who the retail customer is, what services are purchased, or what carrier supplied them.

III. FEDERAL UNIVERSAL SERVICE FUND SUPPORT SHOULD BE PROVIDED FOR TELECOMMUNICATIONS SERVICES USED BY SCHOOLS, LIBRARIES AND HEALTH CARE PROVIDERS.

1. The first steps are public policy decisions on the functionality to be provided and the level of support funding needed.

GTE supports the objective of making telecommunications-based education and health care services available to all parts of the nation. Incumbent LECs have played, and will continue to play, a vital role in interconnecting such entities to resource materials and to other education and health organizations.

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then the basis for funding should be interstate retail revenue.

Fulfilling this objective will take a partnership of government and private industry, as well as state and federal regulators.

The most important initial steps are for the FCC and Joint Board to: (i) examine the different options available, and the level of functionality associated with each; (ii) identify the amount of support necessary to realize each option; and (iii) select the option that achieves the best balance between the functionality provided, the needed level of support, and the associated burden on contributors to the universal service fund.[33] Once such a public policy decision has been reached, and a commitment made to provide a specific level of funding, the telecommunications industry will become involved by providing network services under the terms and conditions specified by §254(h).

2. GTE proposes a plan for providing universal service support to eligible educational entities that satisfies the requirements of the '96 Act, meets the FCC's administrative concerns, and enables the entire process to be managed in an efficient and consistent manner.

The *NPRM* (at ¶79) notes that funding is a frequently cited barrier to acquiring or using telecommunications services in public schools.[34] The *NPRM* (at ¶84) requests comment on how entities eligible for discounted services could be identified, and (at ¶85) whether a *bona fide* request process should be used. Further, the *NPRM* (at ¶84) proposes that each carrier be required to inform annually

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[33] A report entitled *KickStart Initiative, Connecting America's Communities to the Information Superhighway* ("KickStart Initiative"), issued in January, 1996, by the United States Advisory Council on the National Information Infrastructure, identifies the needs of educational entities, options for meeting those needs, and the associated costs of each option. *See* Appendix D for a copy of the relevant pages. GTE suggests the laboratory model described within this report could serve as a reasonable basis for determining the functionality to be provided and the total amount of funding required for network services. The portion of such network costs to be supported would be an independent policy decision.

[34] Telecommunications-based educational services require funding for much more than the network portion of such services. *See* Appendix D wherein the *KickStart Initiative* report identifies the telecommunications network component of the costs of a "laboratory model" as at most only seven percent of the total initial investment, and fifteen percent for ongoing operation and maintenance costs. For libraries, the amounts are four and nine percent, respectively, inclusive of Customer Premises Equipment ("CPE"). *See also, Schools in Cyberspace: The Cost of Providing Broadband Services to Public Schools*, Executive Summary, Carol Weinhaus, at 1-3, provided as early-filed Comments in this *D.96-45* proceeding.

each school and library within its serving area of available discounts. GTE submits that adoption of the plan described *infra,* could satisfy the requirements of the '96 Act, meet the FCC's administrative concerns, and enable the entire process to be managed in an efficient and consistent manner.

The first step in the administrative process GTE proposes would be to identify the total nationwide amount of funding needed for the network service component of the level of functionality chosen by public policy makers to be provided to eligible educational entities.[35] Once this amount has been identified, each state would be allocated a "fair share."[36]

Next, each state would establish an administrator with responsibility to: (i) serve as a central focal point for information about available discounts (*NPRM* at ¶¶84, 100-103); (ii) review requests for discounted network services to ensure the requesting entity is eligible under the '96 Act (*NPRM* at ¶84),[37] (iii) review each request to ensure it is "*bona fide*" (*NPRM* at ¶85);[38] and (iv) authorize dispensing of universal service fund credits (or monies) to the chosen network service provider.[39] The educational entity

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[35] A public policy decision that establishes the total amount of support to provide on a nationwide basis will yield a specific level of discount available to eligible educational entities. *NPRM* at ¶80. This approach will also harmonize the state and Federal discount methodologies. *NPRM* at ¶83.

[36] The Joint Board could rely on a panel of educators to suggest a fair method for apportioning these funds among states.

[37] GTE suggests that network services used by an eligible entity that has both non-profit and for-profit usage should be eligible for a discount based upon relative usage, analogous to the method used by IXCs to report a percent interstate usage. *NPRM* at ¶86 The use of a single state administrator would facilitate this approach, since the administrator would have the knowledge necessary to evaluate proposed plans that included such partnerships.

[38] To be considered a *bona fide* request by the state administrator, a school's plan should specify each of the components required to create an effective program. The plan's budget should show that all of the necessary non-network components (*e.g.*, inside wiring, CPE, computers, educational application software and training in its use) are already present, or that funding for them has been arranged from sources other than the universal service fund.

[39] §254(h)(1)(B) limits discounted network service availability for educational entities to those already available ("its services"), or to those voluntarily installed by the carrier. The area in which a service is offered under tariff is the relevant geographic unit for determining where an incumbent LEC has a network service available. *NPRM* at ¶80.