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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

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

CC Docket No. 96-45

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Reply Comments of

THE UNITED STATES CATHOLIC CONFERENCE, NATIONAL COALITION FOR THE HOMELESS, WASHINGTON LEGAL CLINIC FOR THE HOMELESS, AMERICAN WOMEN'S ROUNDTABLE, COMMUNITY TECHNOLOGY INSTITUTE, CONSUMER ACTION, FIFTH STREET CONNECTION, HEARTLAND ALLIANCE FOR HUMAN NEEDS AND RIGHTS, INTERSTATE MIGRANT EDUCATION COUNCIL, NATIONAL ASSOCIATION OF MIGRANT EDUCATORS, MARCIA ZASHIN, EDUCATION CONSULTANT TO CLEVELAND PUBLIC SCHOOLS AND PROJECT ACT, MIGRANT LEGAL ACTION PROGRAM, AND VERMONT MIGRANT EDUCATION PROGRAM

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Many important issues were raised by the Comments filed in this proceeding. However, Commenters have focused in these Reply Comments on the four criteria listed in Section 254 of the Telecommunications Act of 1996 ("the Act" or "Telecommunications Act") that the Joint Board and the FCC must consider in identifying services that qualify for universal service support.¹ In these Reply Comments, we show how the proposals in our original filing meet each of the Act's criteria.²

¹ As discussed in our original filing, Commenters agree with the NPRM's conclusion that the FCC need only consider each criteria, but it need not find that each service meets each of the four criteria to be eligible for universal service support. The FCC's finding is consistent with the plain language of the Act because the Act unambiguously states that in defining the services that are supported by Federal Universal support mechanisms, the Joint Board and the FCC "shall consider the extent to which such telecommunications services" meet the four criteria listed within. See Caminetti v. United States, 242 U.S. 485 (1916).

Moreover, the FCC's interpretation is consistent with the other related provisions in the statute. Where the statute was passed to ensure the provision of basic services to "all Americans," exclusion of homeless persons and migrant farmworkers from the provision of basic communications services would subvert the intent of the Act.

Finally, the legislative history further supports the FCC's interpretation. The conference report stated that the definition of universal service "should be based on a consideration of the four criteria set forth in the subsection." Conference Report at 131. In stating the FCC should base its determination on a "consideration of the four criteria," it is clear that Congress did not intend the FCC to prove that every service to be included with in universal service meets each of these criteria. Had Congress' intended each criteria to be met, it would have stated the FCC must find each service meets each of the criteria listed in Section 254.

² As stated in Commenters' original Comments, Commenters support the implementation of increased access to public payphones. This issue will be addressed in a separate proceeding as required under Section 276(b)(2) of the Telecommunications Act. See Notice, at ¶ 57.

I. COMMENTERS PROPOSALS MEET THE CRITERIA LISTED IN SECTION 254(c)(1)(A-D) OF THE TELECOMMUNICATIONS ACT, AND THEREFORE, SHOULD BE AFFORDED UNIVERSAL SERVICE SUPPORT

In identifying services eligible for universal support, Section 254(c)(1) of the Telecommunications Act requires the FCC to consider the extent to which services: 1) are essential to education, public health or public safety; 2) have been subscribed to by a substantial majority of residential customers; 3) are being deployed in public telecommunications networks; and 4) are consistent with the public interest, convenience, and necessity.³ In considering each of these factors, the services Commenters proposed in our original filing should receive universal service support because they comport with the Act.⁴ Because the Joint Board

³ Telecommunications Act §254(c)(1)(A-D).

⁴ As stated in Commenters' original Comments, the recommendations offered do not endorse any finite set of particular services. See Comments of the United States Catholic Conference et al. at 3, filed April 12, 1996. Rather, Commenters' goal is to suggest services that will allow homeless persons and migrant farmworkers to have access to the telecommunications network.

In the Commenters' original filing, increased internet access and long distance learning capabilities were also recommended as additional services to be supported by universal service funding mechanisms. See Comments of the United States Catholic Conference et al. at 11-13 and 19-20. Commenters continue to support these services and indorse the comments of the National School Board Association et al., at 5-6; Richard W. Riley, Secretary of Education, at 3 and 5; International Society for Technology in Education, at 7, and the Edgemont Neighborhood Coalition at 13, which address each of these issues.

Furthermore, United States Catholic Conference et al. agree with other Commenters that the Lifeline and Link-Up programs should not only be retained, but strengthened and expanded. See, supra, note 15. Commenters believe the Link-Up program should be expanded to provide assistance for more than one initiation per residence per year. Providing a means to allow migrant workers and other low income consumers more than one initiation per year will increase their access to telecommunications services and will enable poor and highly mobile

(continued...)

and Commission need only consider each criterion, even if a service does not meet all four criteria it could be included in the Commission's universal support mechanism. In that instance, the FCC should show that the criteria met by the service are so significant that they substantially outweigh the necessity of demonstrating that all of the criteria are met.

A. Voice Mail Services For Homeless Persons and Migrant Farmworkers Should Receive Universal Support

Voice mail for homeless persons and migrant farmworkers clearly meets the first criterion, because as described in Commenters' original filing, it ensures that these groups can effectively communicate with prospective employers, family, and social service, health care and other providers.⁵ Effective communication with employers and service providers is essential to the education, public health and public safety of these constituencies.

Voice mail for homeless persons and migrant farmworkers also meets the second criterion, since this service is subscribed to by a majority of residential customers.⁶ Because homeless persons do not have a home and migrant farmworkers are away from their home for a substantial portion of the year, they cannot rely on residential phone service to receive incoming calls and to make outgoing calls. Therefore, voice mail serves as a substitute for basic telephone

⁴(...continued)
groups to communicate with employers, medical and educational facilities, and family.

⁵ Telecommunications Act § 254(c)(1)(A).

⁶ Telecommunications Act § 254(c)(1)(B).

service, which is widely subscribed to by over ninety-four (94%) percent of all residential customers.⁷ Moreover, voice mail itself is also widely subscribed to by residential customers. In May 1995, Pacific Bell Information Services reported that in California, demand for residential and business voice mail was growing at thirty five percent (35%) per year.⁸ As of March 1995, Bell Atlantic's Answer Call voice mail service, the largest in the country, reached 1.4 million residential customers.⁹ Other telephone companies have reported similar findings.¹⁰

Voice mail for homeless persons and migrant farmworkers also meets the third criterion because it is widely deployed in the public telecommunications network.¹¹ A press account reported that in voice mail's infancy it was growing in sales by 50 percent a year.¹² Surely, almost ten years later voice mail can be found throughout the telecommunications infrastructure. Providing universal support to subsidize homeless person and migrant farmworker acquisition of voice

⁷ Jorge Reina Schement, *Beyond Universal Service*, May 1994 at 2.

⁸ Sidewire, *Telecomworldwire*, May 15, 1995.

⁹ Mike Mills, Montgomery to Get Phone Message Service; Bell Atlantic's Residential 'T-Mail' Experiment is First in Country, *Wash. Post*, Mar. 17, 1995 at F-1.

¹⁰ Tom Michele, Telephone Company keeps Stride With Progress, *Rhineland Daily News*, Feb. 13, 1995, at A-1 (reporting approximately 48% of Rhineland Telephone Companies 1994 voice mail growth was from residential customers).

¹¹ Telecommunications Act § 254(c)(1)(B-C).

¹² Andrew Pollack, Company News, *NYT*, Aug. 20, 1988 at Section 1, p.1.

mail also meets the fourth criterion.¹³ It clearly serves the public interest, convenience and necessity for persons who would otherwise lack access to the telecommunications network, by enabling them to receive and retrieve messages from schools, social service agencies, medical facilities and family, and thus become fuller participants in society.¹⁴ Finally, Commenters believe that anyone who provides voice mail to these constituencies should be eligible for universal service support, and that the fund should not be limited to local telephone service providers.

B. Subsidized Telephone Initiation and Low Access Rates for Non-Profit Organizations That Serve Homeless Persons and Migrant Farmworkers Should Receive Universal Service Support

In addition to voice mail, subsidizing telephone initiation costs and providing low telephone rates for non-profit organizations that serve homeless persons and migrant farmworkers should be included in the universal service support mechanism since it meets all the criteria of Section 254(c)(1) and is another means of ensuring these groups have access to basic services. Many Commenters supported the retention of the FCC's Lifeline and Link-Up programs which ensure low income persons can both initiate telephone service through a subsidized

¹³ Telecommunications Act § 254(c)(1)(D).

¹⁴ See Comments of the United States Catholic Conference et al., at 8-10 and 18 (access to voice mail for these groups has lead to increased opportunities for obtaining jobs and housing.) See also, discussion supra, at 6.

initiation fee and maintain telephone service through a subsidized rate.¹⁵ These programs, however, do not meet the needs of persons without a home or those who are away from their residence for a substantial portion of the year. This disparity can be ameliorated by providing initiation and service rate subsidies, akin to those offered low income persons through Lifeline and Link-Up, to the non-profit advocacy organizations that support the basic needs of these constituencies. Such subsidies would, in effect, improve access by these constituencies to both basic and advanced communications services.

By way of example, many homeless shelters have a limited number of phones to support a large number of clients. Not only are many shelters unable to provide their clients with basic services, but they lack the wiring and affordable rates to offer more advanced services such as internet and other integrated computer networks. Subsidized phone installation will increase the number of lines a shelter can afford, thereby increasing the number of services it can provide. And reduced telephone rates will permit the shelter to maintain additional phone lines

¹⁵ **See**, Comments of NYNEX, at 16 (Lifeline and Link up should be expanded and/or restructured to carry out the purposes of Section 254), Bell Atlantic, at 6 (many low income consumers would be off the network without targeted programs such as Lifeline and Linkup and therefore these programs should be retained), BellSouth, at 13 (low income consumers can have access to telephone service through continuation of the Lifeline and Linkup programs), USTA, at 23 (these programs should be continued and expanded), US West, at 7 (US West has long supported and continues to support current Lifeline and Linkup programs) Southwestern Bell, at 6-7 (expanding Lifeline as well as Link up will be vital for those households that cannot pay the affordable price of universal service). We support these commenters' views to the extent they believe Linkup and Lifeline should be retained and/or expanded to ensure access by low income customers.

once they are installed. Additional phone lines can be used by shelters to increase homeless persons' access to phones, as well as opportunities to access the internet and other integrated computer networks. As described in Commenters' original filing, access to basic phone and advanced communications services has profound effects on improving shelter service to clients. It also increases homeless persons' and migrant farmworkers' ability to communicate with employers, landlords, government officials, educational and medical facilities, emergency services and family members.¹⁶ Increased access to these persons results in increased employment, housing and other opportunities and therefore meets the first criterion that service be essential to education, public health or public safety.¹⁷

As discussed supra, basic phone service is initiated by and subscribed to by a majority of residential customers.¹⁸ It is certainly deployed in the telecommunications network by telecommunications carriers, and therefore meets the second and third criteria.¹⁹ Furthermore, providing universal support for subsidized phone initiation and affordable rates to non-profit organizations meets the fourth criteria and is consistent with the public interest because in the same way low income residential subscribers have access to subsidized phone initiations

¹⁶ See, Comments of the United States Catholic Conference, et al., at 8-13.

¹⁷ Telecommunications Act § 254(c)(1)(A).

¹⁸ Jorge Reina Schement, *Beyond Universal Service*, May 1994 at 2.

¹⁹ Telecommunications Act § 254(c)(1)(B-C).

and service for their health, safety and welfare, non-profit organizations that serve those persons who have no residence or are away from their residence a substantial part of the year, should also have subsidized lines to better serve their clients.²⁰ In addition, providing subsidies to non-profit organizations is an efficient and cost effective way for these two groups to gain access to telecommunications services since these organizations are already in existence and have mechanisms in place to serve these constituencies.

C. The Universal Service Support Fund Should Subsidize Toll Free Numbers for Non-Profit Organizations That Service Homeless Persons and Migrant Farmworkers

Furthermore, the criteria of Section 254(c)(1) are also met by subsidizing toll free numbers for non-profit organizations which serve the needs of homeless persons and migrant farmworkers. Subsidizing non-profit advocacy organizations' acquisition of toll free numbers would enable homeless persons and migrant farmworkers to make calls to such organizations to obtain information regarding shelter availability, healthcare and legal advice, and other essential education, public health and safety services and therefore satisfies the first criterion.²¹

Toll free number hotlines enable farmworkers to make toll free calls to receive information on healthcare and educational programs that are available to them in the area in which they are currently working. Migrant farmworkers traveling on the road would otherwise be prohibited by cost from making calls to

²⁰ Telecommunications Act § 254(c)(1)(D).

²¹ Telecommunications Act § 254(c)(1)(A).

check on benefits, legal advice and health care issues.²² Toll free number hotlines also permit homeless persons to call local social service providers when they are out of money. Subsidizing acquisition of these services to non-profit organizations will make these organizations more accessible to the people they serve, whether those people reside across the country or across town. Furthermore, toll free numbers may also be used by homeless persons and migrant farmworkers to call into their voice mail. In our original filing, Commenters described how several current voice mail programs utilize toll free numbers to access voice mail.²³

Toll free numbers are widely subscribed to by residential customers and therefore comply with the second criterion of § 254(c)(1).²⁴ The United States has seen an unprecedented demand for toll free numbers which has been in part attributed to the growth in the use of "personal 800 numbers to residential customers."²⁵ Co-Chairman of the Industry Numbering Committee, Dennis Byrne,

²² The Eastern Stream Center on Residence and Training (ESCORT) has recently been awarded a contract to establish a national coordination center in which a national toll free number is available for migrant farmworkers. Calls which are received on the toll free line are automatically routed to the nearest source center which then refers the caller to the necessary social service provider. This service allows migrant farmworkers to communicate with service providers regardless of where the migrant farmworker is located using a single number. Interview with Phillip Kellerman, May 7, 1996.

²³ See Comments of the United States Catholic Conference et al., at 8-9.

²⁴ Telecommunications Act § 254(c)(1)(B).

²⁵ According to David Rogers of BellSouth Telecommunications and as reported in Bellsouth ready To Offer Toll-Free 888 Numbers, PR Newswire, Feb. 28, 1996 at Financial News.

observes, "[w]ith 7.6 million 800 numbers, you can have one for every business with no problem, so what's really done it is all the residential 800 numbers . . . [i]n 26 years, we used 2 million 800 numbers, but in less than 1 1/2 years, we've used up another 5 million."²⁶ Toll free numbers have gained in popularity so much so that the FCC has run out of 800 numbers and has had to begin to issue 888 numbers.²⁷ The use of the these numbers is also widely deployed in the telecommunications network, and therefore, satisfies the third criterion.²⁸ Furthermore, subsidized access to these numbers meets the fourth criterion since it serves the public interest by making service providers more accessible to migrant farmworkers and homeless persons who could otherwise not afford to call them because of the prohibitive cost of a toll or local call.

CONCLUSION

Because the proposals recommended by Commenters meet all four of the criteria listed in § 254(c)(1) of the Telecommunications Act of 1996, they should be included in the services that receive universal service support.

²⁶ Elizabeth Douglas, Number CRUNCH High Demand Forces Rationing of Toll-Free Phone Lines, San Diego Union-Tribune, June 25, 1995 at I-1.

²⁷ Toll Free Service Access Code, 10 FCC Rcd. 13692, Notice of Proposed Rule Making, CC Dkt. No. 95-155, (adopted and released January 25, 1996). (The FCC pointed out that toll free telephone numbers were increasingly being used to meet consumers' personal needs. One example cited was that parents can give their toll free number to a child away at college, enabling that child to call home free of charge at any time. Due to pace at which these numbers are being used by consumers, the danger existed that 800 toll free numbers could be depleted before an additional toll free code could be introduced.)

²⁸ Telecommunications Act § 254(c)(1)(C).

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Ilene R. Penn, hereby certify that I have this 7th day of May, 1996, mailed by first class United States mail, postage prepaid, copies of the foregoing Reply Comments of the United States Catholic Conference et al. in the matter of "Federal-State Joint Board on Universal Service," CC Docket No. 96-45 to the following:

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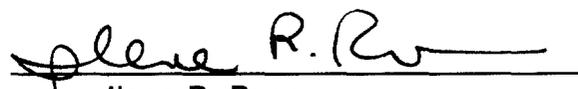
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