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William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Federal-State Joint Board on Universal Service;
CC Docket No. 96-45

Dear Mr. Caton:

Please find enclosed an original and eleven copies of the Reply Comments of Winstar Communications, Inc. in the above-referenced docket. Also enclosed are **TWO** copies to file-stamp and return.

If you have any questions, please contact the undersigned.

Sincerely,

Antony R. Petrilla

Counsel for WinStar Communications Company, Inc.

Enclosures

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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20054

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OFFICE OF SECRETARY

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

REPLY COMMENTS OF WINSTAR COMMUNICATIONS, INC.

Timothy R. Graham
Robert M. Berger
Joseph M. Sandri, Jr.

WINSTAR COMMUNICATIONS, INC.
1146 19th Street, N.W.
Washington, D.C. 20036

Its Attorneys

Dated: May 7, 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

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REPLY COMMENTS OF WINSTAR COMMUNICATIONS, INC.

WinStar Communications, Inc. ("WinStar"), by its undersigned counsel and pursuant to Section 1.415 of the Commission's rules, submits these reply comments in accordance with the Commission's Notice of Proposed Rulemaking and Order Establishing a Joint Board ("NPRM") in the above captioned proceeding.

INTRODUCTION

WinStar wishes to submit further, detailed comments only in regard to: 1) cost proxy models, such as the Benchmark Costing Model ("BCM") proposed by MCI, NYNEX, Sprint, and U S West ("Joint Sponsors") and the model proposed by Pacific Telesis ("Pacific"); 2) the definition of "core" services; and 3) minimum broadband capability standards for telecommunications carriers receiving universal service funding. Section I explains that the network cost assumptions underlying proxy models should take account of more efficient wireless technology. Section II argues that the definition of "core" services should not exclude wireless services. Section III discusses and supports requiring telecommunications carriers to meet minimum broadband capability standards to be eligible for universal service funding.

Finally, in Section IV, WinStar briefly states its position on the range of issues raised by other commenters.

I. EFFICIENCY CONCERNS REQUIRE BASING PROXY MODELS ON THE COSTS OF WIRELESS TECHNOLOGY, WHERE FEASIBLE, RATHER THAN COPPER WIRELINE LOOP COSTS

WinStar agrees that the targeting of future universal service funding must be accomplished through the use of cost proxy models. The current practice of indemnifying local exchange carriers ("LECs") for actual, additional costs incurred, or to the extent of their revenue requirements, creates absolutely no incentive for them to become more efficient. Unquestionably, the Commission will have to move to a cost proxy system, but, in doing so, it should pay special attention to the manner in which proposed proxy formulas locate high cost areas. The use of copper loop costs as the baseline point of reference for costs in areas more efficiently served by wireless technology would inappropriately inflate associated universal service subsidies and improperly incent LECs to rely on expensive, outdated equipment.[1] *See* Comments of the Texas Office of Public Utility Counsel, at 14 ("wireless technologies may supplant more expensive loop-dependent technologies"). Proxy models must use wireless cost structures, where feasible, to determine the appropriate amount of funding needed by high cost areas and to avoid perpetuating obsolete, inefficient telecommunications infrastructure.

The Joint Sponsors and Pacific both offered two primary cost proxy models to be advanced in this proceeding and both unfortunately suffer from the defect cited above. Costs of

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[1] It is front page news that local phone companies around the country already believe that they will need to raise local rates by $10 per month to fund embedded technology in the event that access fees are reduced. Mike Mills, *Phone Firms Seek Higher Local*, Washington Post, May 7, 1996, at A1. Increasing local rates would be unnecessary for carriers using ultra-efficient network technology like WinStar.

service under the BCM and Pacific's proposal are calculated by reference to the costs of currently-existing copper wireline technology. Comments of U S West, Appendix A, at 2; Comments of Pacific Telesis, Appendix D, at 2. WinStar urges the Commission to adopt a cost proxy model that is fine-tuned to provide for the use of more efficient wireless cost structures where possible.

Indeed, MCI, one of the Joint Sponsors, concurs. Recognizing the need to be "technology-neutral," MCI's comments advocate capping funds targeted through the BCM based on wireless technology. *Id.*, at 11. The Commission must seriously consider this recommendation of one of the BCM's Joint Sponsors.

II. THE DEFINITION OF "CORE" SERVICES SHOULD NOT EXCLUDE WIRELESS SERVICES

WinStar supports the Commission's current definition of "core" services because it is technology-neutral and would not exclude wireless services.[2] As explained above, wireless technology could potentially serve rural, insular and high cost areas much more efficiently than wireline technology. It is important that the Commission adopt a definition of "core" services that does not discriminate against wireless providers. *See* Comments of AT&T, at 12-13.[3]

NYNEX argues for excluding wireless providers from universal service funding, yet offers no logical reason for doing so. Comments of NYNEX, at 12-13. NYNEX states that a

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[2] In Paragraph 16 of the NPRM, the Commission proposes providing universal service support for: "(1) voice grade access to the public switched network, with the ability to place and receive calls; (2) touch-tone; (3) single party service; (4) access to emergency services (911); and (5) access to operator services."

[3] Many other commenters supported the Commission adopting a technology-neutral paradigm. Comments of Alliance for Public Technology, at 13-14; Comments of Apple Computer, at 3; Comments of State of California, 10-12; Comments of Citizens for a Sound Economy, at 6-7; Comments of Council on Competitiveness, at 4; Comments of LDDS WorldCom, at 4-7; Comments of MFS, at 8.

"substantial majority of residential customers" do not subscribe to wireless service because it is currently priced "substantially" higher than wireline service. But what NYNEX does not argue is that wireless service costs in rural, insular and high cost areas would be greater than the service costs of a wireline carrier. In fact, NYNEX grudgingly admitted that wireless costs could be much less than wireline costs in high cost areas when it proposed including wireless services within the definition of universal service on an "exception basis." *Id.*, at 13.

WinStar urges the Commission not to foreclose efficiency gains that may be realized by allowing wireless providers to access universal service funding.

III. TELECOMMUNICATIONS CARRIERS THAT RECEIVE UNIVERSAL SERVICE FUNDING MUST MEET MINIMUM BROADBAND CAPABILITY STANDARDS

Telecommunications carriers, to be eligible for universal service funding, must meet the minimum broadband capability standards set forth in the Rural Electrification Loan Restructuring Act of 1993.[4] 107 Stat. 1356, *codified in* 7 U.S.C. § 935 (1994); *see also* Reply Comments of MFS. WinStar supports this proposition because it would encourage telecommunications providers to implement advanced technology in rural or high cost areas. Current funding mechanisms provide no incentive for such carriers to update their networks and instead permit carriers to employ outdated, obsolete technology. In the absence of minimum broadband capability requirements, telephone consumers living in rural or high cost areas would be deprived of advanced features that will be soon be available through broadband capability. WinStar's Wireless Fiber℠ network already supports 1 Mb/second broadband

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[4] The Rural Electrification Act requires applicants for federal electrification loans to demonstrate a minimum broadband capability of 1 Mb/second. 7 U.S.C. § 935 (d)(3)(b) (1994).

capability that could be provided in most areas more efficiently than through the network of the incumbent carrier.[5]

IV. SUMMARY OF WINSTAR'S POSITION ON UNIVERSAL SERVICE ISSUES

- Existing universal service programs (the Universal Service Fund and DEM weighting) should be discontinued with no significant transition period.
  - Efficiency gains and cost savings created by competition may alleviate the need for much of the universal service funding currently being distributed.
- To the extent that universal service funding is necessary, it should be targeted through cost proxy models.
  - The proxy models should be applied to all LECs in rural, insular and high cost areas, regardless of whether they are price cap or rate-of-return companies.
  - Proxy models should be based on the costs of forward-looking wireless technology, where feasible, not the costs of currently-existing copper technology.
  - Proxy models will avoid unnecessarily directing funds to carriers whose residential rates are unnaturally low as a result of cross-subsidies from other services.
- The definition of "core" services to be supported by universal service funding should include wireless services.
  - The Commission should not include services such as call waiting and call trace within the definition of "core" services. *See* Comments of the Texas Office of Public Utility Counsel, at 16.
- All universal service funding should be administered in a competitively-neutral fashion.
  - Universal service funding must be portable so as not to advantage incumbent LECs.

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[5] WinStar funded the development of 1 Mb/second broadband capability without using any kind of universal service subsidies. It would be inappropriate for incumbent carriers to fund their build-out of broadband capability with federal subsidies.

- Partial facilities-based carriers that purchase unbundled network elements at cost should be eligible for universal service funding. Pure resellers should be eligible for universal service funding only if they purchase resold service at or above actual cost.

- Bidding schemes would not advance the interests of universal service. Instead, state regulators should designate both primary and secondary carriers to serve certain rural, insular and high cost areas.

    - Such a plan would create robust network redundancy and afford new entrants ease of entry into rural, insular and high cost markets.

- Contributions to universal service should be collected from all telecommunications carriers on the basis of gross revenue less payments to other carriers.

- The Commission should appoint a single, neutral universal service administrator.

    - NECA and BellCore are not neutral entities.

- The Commission should address access charge reform in the docket it plans to open for such issues. *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, CC Docket No. 96-98 (released April 19, 1996), at note 7.

Respectfully submitted,

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Dated: May 7, 1996

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of May 1996, copies of the foregoing REPLY COMMENTS OF WINSTAR COMMUNICATIONS, INC. in Docket 96-45, were served via Messenger** or First-Class Mail, U.S. postage prepaid, to the parties on the attached service list.

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Sheila M. Beattie

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