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AMERICAN ASSOCIATION OF COMMUNITY COLLEGES
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May 8, 1996

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RE: Reply Comments, CC Docket No. 96-45
In the Matter of Federal-State Joint Board on Universal Service

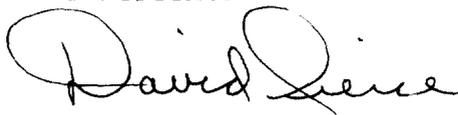
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Dear Mr. Caton:

The American Association of Community Colleges (AACC) and the Association of Community College Trustees (ACCT) hereby submit the enclosed joint reply comments in CC Docket No. 96-45, FCC 96-93, relating to Universal Service. AACC and ACCT urge the FCC to adopt the recommendations made herein, and in their initial comments in this proceeding, as consistent with and indispensable to the attainment of the Commission's universal service goals.

Respectfully Submitted,

David Pierce



President
American Association of
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Ray Taylor



President
Association of Community
College Trustees

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

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

**JOINT REPLY COMMENTS OF
AMERICAN ASSOCIATION OF COMMUNITY COLLEGES AND
ASSOCIATION OF COMMUNITY COLLEGE TRUSTEES**

The American Association of Community Colleges ("AACC") and the Association of Community College Trustees ("ACCT"), by their attorneys, hereby submit their joint reply comments in response to filings made in this docket on April 12, 1996. Specifically, AACC and ACCT, collectively referred to as the "Joint Commenters," submit these reply comments to address issues critical to the Federal Communications Commission's ("FCC" or "Commission") fulfillment of its statutory obligation to enhance access to core and advanced telecommunications and information services for all public (non-profit) schools, libraries and health care providers.

I. The FCC Must Act Expeditiously to Adopt Pro-Competitive Universal Service Policies That Directly Benefit Schools, Libraries and Health Care Providers.

The Joint Commenters urge the Commission to determine the "core" and "advanced" services to be supported by universal service mechanisms for the benefit of schools, libraries and health care providers in the instant proceeding. A number of parties commenting in this docket have suggested that the FCC proceed with its analysis as part of its investigation of "advanced services" under Section 706 of the Telecommunications Act,^{1/} or through the issuance of a future

^{1/} See e.g. Comments of the United States Telephone Association at 12.

Notice of Inquiry ("NOI").^{2/} The FCC, however, cannot delay in defining the core and advanced services to be made available to schools, libraries and health care providers pursuant to its Congressional mandate.

Under Section 254 of the Telecommunications Act of 1996 ("1996 Act"), the FCC is charged with instituting a proceeding to determine the definition of services that are to be supported by Federal universal service support mechanisms, including a separate definition applicable to "public institutional telecommunications users," e.g. schools, libraries and health care providers.^{3/} This obligation is distinct from the statutory requirement that the Commission "initiate and complete regular inquiries to determine whether advanced telecommunications capability, particularly to schools and classrooms, is being deployed in a 'reasonable and timely fashion.'"^{4/} While the initiation of this proceeding may satisfy the FCC's obligations under Sections 254 and 706 in the first instance, Section 706 of the 1996 Act has the continuing effect of requiring subsequent evaluations to ensure that the need for advanced services by all Americans, including schools, is adequately addressed. That the FCC has determined to consider the definition of advanced services in this context is not procedurally infirm; in fact, such an inquiry is compelled under Section 254 of the Telecommunications Act.

Similarly, the FCC is not required to consider the appropriate definition of "universal service" only in the context of a NOI. The FCC, as the governmental entity charged with

^{2/} See Comments of Time Warner Communications Holdings, Inc. at 17.

^{3/} See TCA Sections 254(a)(1), 254(b)(6), 254(c)(3), 254(h)(5)(C).

^{4/} See Conference Report, Joint Explanatory Statement of the Committee of Conference, Telecommunications Act of 1996 at 210 (January 31, 1996) (the "Conference Report"); Section 706 of the 1996 Act.

jurisdiction over national telecommunications policy decisions, is given wide discretion in proceeding by the issuance of an NOI or Notice of Proposed Rulemaking ("NPRM"). In many instances, NPRM's are issued to consider novel rules, issues, practices and procedures that have not been considered previously by the FCC or the industry.

In addition, the FCC should not leave the determination of what services should be made available to schools, libraries and health care facilities under the FCC's universal service rules to the marketplace.^{5/} Although significant steps have been taken by various segments of the telecommunications industry to enhance access to the information superhighway, a structured scheme of discounted rates and support is required to ensure that all eligible institutions benefit from the Commission's universal service policies. With the introduction of robust competition within the wireline and wireless telecommunications markets, it is likely that resources previously made available to support the delivery of broadband telecommunications services to schools, colleges and universities could be restricted or withdrawn as carriers are forced to compete with new entrants on the basis of price and functionality. Without a mandatory universal service mechanism requiring the cooperation of all providers of interstate service to support the FCC's universal service objectives, the Commission runs the risk of neglecting the needs of parties specifically identified by Congress as needing support.

Finally, the Joint Commenters urge the FCC to take steps to encourage the computer industry to support access of schools and libraries to telecommunications services. As recognized by a number of commenters, access to telecommunications services alone may not be

^{5/} See e.g. Comments of MFS at 4-5; Comments of Tele-Communications, Inc. at 17-18.

sufficient to achieve the FCC's universal service goals.^{6/} The Joint Commenters, therefore, support FCC policies that would promote cooperation or joint proposals between telecommunications providers and providers of hardware to the extent computers and other equipment will be utilized in accessing advanced telecommunications services made available under the FCC's universal support mechanisms.

II. Universal Service Support Mechanisms Should Provide Schools, Libraries and Health Care Providers with Meaningful Access to Advanced Services.

The Joint Commenters urge the FCC to adopt rules that provide schools, libraries and health care providers with the services required to address the unique needs of their respective disciplines. For instance, the FCC should expand the definition of core services applicable to K-12 schools and comparable institutions, e.g. community colleges, beyond voice grade access to the Public Switched Telecommunications Network, Touch-tone service, Single Party service and access to Operator Services. The definition should include Internet access availability, data transmission capabilities and interexchange services.^{7/} Fiber optic connections, or comparable

^{6/} See e.g. Comments of BellSouth at 17-18 (encouraging FCC to find ways to encourage other entities, e.g. the computer industry, to contribute to the achievement of universal service goals); Comments of NYNEX at 18-19 ("Telecommunications services are only one component of the packages of services, hardware, software, and professional training and support that are needed to bring the benefits of the information age to these entities.").

^{7/} See Conference Report at 133 ("New Section (h)(2) requires the Commission to establish rules to enhance the availability of advanced telecommunications and information services to public institutional telecommunications users. For example, the Commission could determine that telecommunications and information services that constitute universal service for classrooms and libraries should include dedicated data links and the ability to obtain access to educational materials, research information, statistics, information on Government services, reports developed by Federal, State, and local governments, and information services which can be carried over the Internet.").

facilities, also should be made available in support of K-12 and K-12-like distance learning initiatives at discounted rates.^{8/}

Contrary to the position of a number of local exchange carriers as expressed in their comments,^{9/} the Joint Commenters support the inclusion of interexchange services in the definition of universal service. In many instances, access to the Internet and other information services requires the use of long distance facilities that only can be obtained at considerable cost.^{10/} Distance learning and teleconferencing also require long-distance connections for voice and/or video interactivity that result in substantial toll or other charges.^{11/} These concerns are particularly acute for schools and community colleges located in rural or high cost areas where the financial burdens of access are not adequately addressed in the marketplace. Discounted long distance service should be included in the FCC's universal service paradigm for schools, libraries and health care providers.

Moreover, the Joint Commenters urge the Commission to adopt universal service definitions that are technically neutral and do not favor one form of communications over

^{8/} To the extent these services are not included in the general definition of "core" services, the service should be included in the services to be made available to schools, libraries and health care providers pursuant to Section 254(c)(3) of the 1996 Act.

^{9/} See e.g. Comments of GTE at 2; Comments of NYNEX at 12.

^{10/} See Comments of The West Virginia Consumer Advocate at 7; Comments of Harris, Skrivan & Associates, LLC at 5; Comments of National Association of Development Organizations at 8.

^{11/} Telemedicine capabilities also require affordable access for interactivity and for access to nationwide and worldwide databases and information -- access that cannot be obtained if long distance services are prohibitively expensive.

another.^{12/} Eligibles for universal service support should be afforded broad discretion in choosing telecommunications services, facilities and functionalities that best meet their needs. They should not be required to use less efficient services when the purpose of this proceeding, in part, is to provide schools, libraries and health care providers with services specifically targeted to suit their needs. Enhancing the options available to these entities also will result in greater competition within the telecommunications industry as a whole.

Finally, cooperation between K-12 schools (and other parties eligible for universal service support), and universal service "ineligibles" should be permitted.^{13/} As discussed in the Joint Commenters' initial submission in this docket, community colleges and K-12 schools frequently partner with state institutions and other network operators in accessing distant information and resources. These extended networks provide local communities with training and resources at all educational levels, including K-12. Private arrangements and connections with community colleges and other state or federal governmental entities, for instance, provide K-12 schools with affordable access to the Internet and other informational tools and resources for the benefit of elementary and secondary school students. Community colleges provide assistance to K-12 school students through post-secondary enrollment options (high school students taking college credit courses in their high school classrooms), tech prep curriculum,

^{12/} See also Comment of Merit Network, Inc. at 3; Apple Computer, Inc. at 7. Contra Comments of NYNEX at 12 ("As a general rule, core universal service should be limited to services using wireline technology.").

^{13/} See e.g. Comments of Merit Network, Inc. at 4; Apple Computer, Inc. at 2-3; U.S. Distance Learning Association at 18-19; Alliance for Distance Education in California at 2.

summer sessions and school-to-work transition programs.^{14/} These functions should be encouraged by the Commission, particularly in light of the recognition by educators and education policymakers of the seamless relationship between high schools and community colleges.^{15/} This is reflected in the increasing use of the phrase "K-14" educational services. An educational or library resource sharing network, or state or regional consortia, should not become ineligible for universal service support simply because the network or program is shared with other governmental entities, community social services agencies, or "ineligible" non-profit or for-profit entities.^{16/}

III. The FCC Should Recognize that Community Colleges May Be Eligible for Universal Service Apart From Their Identity As a Unique Category of Consumers Under the Telecommunications Act.

In addition to being included among the schools eligible to receive discounted advanced services under Sections 254(b)(3) and 254(c) of the 1996 Act, the Joint Commenters also request that the FCC confirm that community colleges may qualify for support as rural, insular,

^{14/} See Comments of Instructional Telecommunications Council ("ITU") at 3 (recommending that universal service support include post-secondary educational institutions who are providing services to elementary and secondary schools, including curriculum, teachers, programs, network services, library services and/or administrative services).

^{15/} See e.g. Statement of Patricia McNeil, Acting Secretary for Vocational and Adult Education on the Fiscal Year 1997 Request for Vocational and Adult Education, and School-to-Work Programs, April 17, 1996 at 3 (recognizing that most employees in the future will need at least a two-year associates degree and the skills to keep learning throughout their working lives).

^{16/} The Joint Commenters also oppose attempts to limit the availability of universal service support based on where services are originated. See Comments of Ameritech at 18-19. In the educational context, telecommunications services and facilities are used to transmit information originated both within the school and within the broader community, particularly in the context of distance learning, telemedicine, and teleconferencing applications. The FCC must permit schools, libraries and health care providers to utilize federal support to achieve the functionalities that are required to accomplish their purpose.

high cost or low income consumers of telecommunications service. As discussed in greater detail in the Joint Commenters' April 12 submission, the provisions of the 1996 Act should be interpreted to provide universal support to educational institutions that fall within classifications that traditionally have governed universal service eligibility.^{17/}

The Joint Commenters strongly oppose attempts to segregate community colleges from other recipients of universal service support to the extent it limits the ability of these institutions to receive the benefits of discounted rates on core and advanced services. Specifically, the FCC should make plain that support for these entities should be permitted to overlap high-cost, rural or low income support mechanisms.^{18/} In addition, the eligibility of community colleges to receive universal service should not depend on the income level of the community alone.^{19/} Although in most cases community colleges and vocational schools in poor communities likely will face considerable financial burdens, it is important to make universal service support available to all K-12-like institutions that cannot afford access to competitive telecommunications services needed to fulfill their educational missions.^{20/} Indeed, certain urban areas that may not be deemed "poor" may be high cost areas in which universal service

^{17/} See Joint Comments of the AACCC/ACCT (filed April 12, 1996).

^{18/} See e.g. Comments of the Alliance for Distance Education in California at 1 (recommending that schools, libraries, media centers and computer centers be equated to a low-income consumer unit). Contra Comments of Southwestern Bell at 9.

^{19/} See Comments of U.S. Distance Learning Associations at 16.

^{20/} Accordingly, the FCC should not adopt an arbitrary limit on the amount of discount that would be available to schools, libraries and health care providers. See Comments of Citizens Utility Company at 20-21. The 1996 Act makes plain that the rates charged for specific services will be determined based upon a comparison of rates charged in various areas within a state and across the nation. It would be premature and contrary to statutory provisions for the FCC to cap arbitrarily subsidies intended to provide meaningful support to these entities.

support is required; in addition, certain educational institutions may qualify for support as low income users of telecommunications services.^{21/}

A number of commenters in this proceeding support making universal service support available to a wide range of entities. For instance, many urge the FCC to adopt an expansive definition of universal service to recognize the contributions of colleges, universities, museums, community computing centers, and community media centers in bringing new services and technologies to all Americans.^{22/} To the extent telecommunications services are used to provide, or to support the provision of, basic educational instruction and to teach remedial skills, the Joint Commenters support an inclusive approach to universal service as serving the goals set forth by Congress in the 1996 Act.^{23/} In respect to community colleges in particular, it is important to ensure that the universal service mechanisms do not have the effect of providing a K-12 student access to advanced services, but then the student subsequently enrolls at a community college that because of lack of access to universal service has less technologically advanced services

^{21/} See e.g. Comments of U.S. Distance Learning Association at 17 (recognizing that support programs should be developed particularly for disadvantaged schools and communities that emulate programs like Lifeline Assistance Plan and Link Up America which currently subsidize needy residential customers).

^{22/} See e.g. Comments of The State Education Department, The University of the State of New York at 7-8; Joint Comments of The People for the American Way, Alliance for Community Media, Alliance for Communications Democracy, Denton Foundation, Center for Media Education, League of United Latin American Citizens, Minority Media and Telecommunications Council, National Council of La Raza and the National Rainbow Coalition at 8-9; Comments of Missouri PUC at 15 (recommending that the term "library" be construed to include community information networks for securing universal service fund support).

^{23/} See e.g. Comments of The Center for Civic Networking, Inc. (urging the promotion of innovative community-based training programs for displaced workers and disadvantaged youth); U.S. Distance Learning Association at 18 (recommending that the FCC view vocational training and other educational institutions as an extension of the eligible public school for purposes of universal service eligibility).

available to the student than the student had access to at the K-12 level. The Joint Commenters urge the FCC to ensure that American students receive sufficient and consistent access to competitive telecommunications services throughout their educational development.

IV. Conclusion

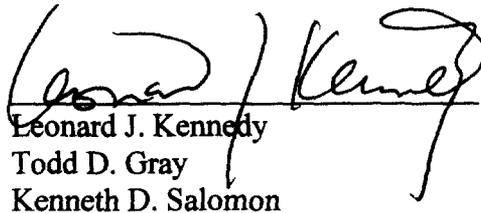
The Joint Commenters request that the FCC adopt the recommendations made herein, and in their initial comments, as consistent with and indispensable to the attainment of the Commission's universal service goals. Without effective universal service support, the Nation's educational institutions will fail to provide American youth with the skills needed to compete in an increasingly global economy. At a time when technology is constantly advancing, it is critical that all Americans, rich and poor, young and old, are provided with a meaningful opportunity to contribute and learn.

Respectfully submitted,

AMERICAN ASSOCIATION OF COMMUNITY
COLLEGES

ASSOCIATION OF COMMUNITY COLLEGE
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May 8, 1996

CERTIFICATE OF SERVICE

I, V. Lynne Lyttle, a secretary at the law firm of Dow, Lohnes & Albertson, do hereby certify that on this 8th day of May, 1996, I caused copies of the foregoing "Joint Reply Comments" to be served via first-class mail, postage prepaid (except where indicated as via hand-delivery), to the following:

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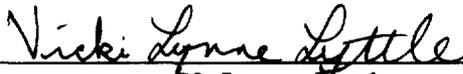
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