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# Public Service Commission of the District of Columbia

450 5TH STREET, N.W.  
WASHINGTON, D.C. 20001  
(202) 626-5100

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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

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

Dear Secretary Caton:

Enclosed please find an original and 11 copies of the Reply Comments of the Public Service Commission of the District of Columbia in the above-referenced proceeding.

Respectfully submitted,

*Lawrence D. Crocker, III*

Lawrence D. Crocker, III  
Acting General Counsel

Public Service Commission of the  
District of Columbia  
450 Fifth Street, N.W.  
Suite 800  
Washington, D.C. 20001  
(202) 626-5140

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
Federal State Joint Board on )  
Universal Service )  
\_\_\_\_\_ )

CC Docket No. 96-45

EX PARTE OR LATE FILED

REPLY COMMENTS OF THE  
PUBLIC SERVICE COMMISSION OF THE  
DISTRICT OF COLUMBIA

Lawrence D. Crocker, III  
Acting General Counsel

Josephine Scarlett Simmons  
Acting Deputy General Counsel

Public Service Commission of the  
District of Columbia  
450 Fifth Street, N.W.  
Suite 800  
Washington, D.C. 20001

(202) 626-5100

May 8, 1996

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

CC Docket No. 96-45

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**REPLY COMMENTS OF THE  
PUBLIC SERVICE COMMISSION OF THE  
DISTRICT OF COLUMBIA**

**I. INTRODUCTION**

On March 8, 1996, the Federal Communications Commission ("FCC" or "Commission") issued its Notice of Proposed Rulemaking and Order Establishing Joint Board ("NPRM") as the vehicle to examine the implementation of Section 254 of the Telecommunications Act of 1996 ("1996 Act").<sup>1</sup> In response to the NPRM, comments were filed by numerous representatives of the telecommunications industry and state regulatory commissions. The D.C. Public Service Commission ("DC PSC"), pursuant to the Commission's Rules of Practice and Procedure, 47 C.F.R. Secs. 1.49, 1.41, and 1.415 (1995), hereby submits responses and observations to several specifically designated comments.

**II. DEFINING THE URBAN BENCHMARK**

- A. The FCC should use the District of Columbia as the benchmark for urban telecommunications services since the District is the only 100 percent urban geographic area and displays stark demographic variances within the same area.**

The Commenting States filed comments in response to the FCC's request for suggestions as to how to ensure that consumers in rural, insular, and high-cost areas and low-income consumers have access to similar telecommunications services and information as

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<sup>1</sup> The DC PSC concurs with the comments of the Rural Telephone Coalition ("Rural Coalition") when it notes that the NPRM contained a wide range of issues, too extensive to possibly respond to in such a limited time frame. See Rural Coalition Comments at n.1. The Rural Coalition also observes, and we would concur, that because the NPRM lacks adequate specificity of issues and proposals, another "round of comment on more specific rules will be needed before the public can adequately comment...." Id.

those available to urban areas, and at rates that are reasonably comparable. See Comments of Commenting States at 1.<sup>2</sup> The Commenting States maintain that States have implicit rate design structures (i.e., rate averaging), to ensure that rural and urban rates are reasonably comparable. Id. at 2. However, the Commenting States claim that as competition matures, the implicit mechanism adopted by the states to accomplish this goal will no longer be possible. They suggest that the implicit method will need to be converted into explicit transfers and funded directly under the Federal universal service mechanisms. Id. at 2-3.

The DC PSC concurs that explicit funding to ensure that comparable services are available across the nation, at reasonably comparable rates, should be the Commission's responsibility and must be accomplished through the use of a Federal universal service mechanism with Federal funding. However, the DC PSC notes that the Commenting States failed to address how the FCC should define the urban area services benchmark in light of the variation in the availability and usage of telecommunications services among urban consumers according to their demographic characteristics (NPRM at 6).

The 1996 Act makes urban areas the benchmark standard by providing that consumers in all areas of the country should receive services comparable to what is available to consumers in urban

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<sup>2</sup> The Commenting States are Maine, Montana, Nebraska, New Hampshire, New Mexico, Utah, Vermont and West Virginia. The Commenting states jointly filed comments in this proceeding.

areas. The 1996 Act, however, fails to define "urban."<sup>3</sup> Moreover, the DC PSC agrees with the FCC that urban dwellers lack homogeneity in terms of availability of service. See NPRM at para. 6. The DC PSC therefore recommends that, prior to establishing such a benchmark, the FCC enhance its data collection techniques so that it can measure the variations among services to urban (including low-income), suburban, rural and insular area customers.

The FCC currently collects and publishes telephone subscribership data three times a year.<sup>4</sup> The data basically includes penetration rates (the percentage of houses with a phone) on a total state basis, a total national basis, and by several subcategories of the national data--income, age, and race. Though the available data is useful for the FCC and State commissions seeking to improve the universality of telephone service, it is insufficient for developing an urban benchmark as prescribed by Section 254(b)(3) of the 1996 Act.

Although the FCC publishes reliable State level telephone subscribership data, the Commission should perhaps use the District of Columbia as the benchmark for urban telecommunications services

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<sup>3</sup> The National Telecommunications and Information Administration (NTIA) 1995 report (NTIA Report), "Falling Through The Net", defines "urban" as does the Census Bureau as "designated areas comprised of all territory, population and housing units of 2,500 or more persons." (footnote omitted) See NTIA Report at 6. For purposes of determining whether and how to target ongoing and future universal support initiatives, the Commission should consider developing different levels and categories of "urban."

<sup>4</sup> See Industry Analysis Division, Common Carrier Bureau, FCC, "Telephone Subscribership In the United States," released February 1996.

for comparative purposes, since the District of Columbia is the only jurisdiction that is 100% urban and has stark demographic variances among urban consumers within the same geographic area. This would ensure that information collected by the FCC, regarding available services, considers that some urban consumers may not have the same services that are available to their urban or rural counterparts.

### III. DEFINING THE LOW-INCOME CONSUMER

- A. **The FCC should adopt an additional universal service principle which recognizes low-income consumers, including urban low-income consumers, as a separate and distinct category under section 254(b)(3) of the 1996 Act.**

In response to the Commission's request that commenters address whether and to what extent concerns for low-income consumers should be addressed in the context of universal service principles, comments were filed by the Rural Coalition. See Rural Coalition Comments at 3. The Rural Coalition, in its response, has interpreted the language of the NPRM (see para. 8) as an inquiry into the advisability of including "rural" low-income consumers within the framework of a Federal universal service mechanism. Id. at 3, n. 5. The DC PSC views the statement by the FCC that commenters should address whether and to what extent "[l]ow-income consumers or those in rural, insular, or high cost areas can or should be articulated as additional universal service principles"<sup>5</sup> as an attempt to elicit discussion of low-income consumers as a separate and distinct category.

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<sup>5</sup> NPRM at para. 8 (emphasis added).

The DC PSC would argue that the Commission's request is highly appropriate given the differences in penetration rates as between urban and rural consumers, as well as differences between consumers within urban environments.

For example, according to the NTIA 1995 Report, central city areas have consistently lower telephone penetration rates than rural areas by income,<sup>6</sup> age,<sup>7</sup> and educational achievement.<sup>8</sup> Finally, a comparison of rural, urban and central city penetration rates by educational attainments demonstrates that for all educational attainments by household, the rural penetration rates exceed those for urban and central city residents.<sup>9</sup> Studies also show interesting differences within geographical areas. For example, only 6.4% of African-Americans residing in rural areas own computers, compared to 24.6% of White Americans residing in rural areas.<sup>10</sup>

There are also variances in penetration rates between urban areas and central cities, and among households within central cities. The NTIA study reveals that central city households

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<sup>6</sup> NTIA Table 1.

<sup>7</sup> NTIA Table 7.

<sup>8</sup> NTIA Table 10.

<sup>9</sup> U.S. Study Finds Varying Access to Phones, PCs; Rural, Urban Poor Less Likely to Tap Into High-Tech World, The Washington Post, July 25, 1995, at C1.

<sup>10</sup> In an urban neighborhood of Hartford Connecticut, for example, one-third of all the homes had no telephone service in 1990, while the neighboring Hartford suburbs had nearly universal service. Lack of Phone Cuts People Off From the World, The Hartford Courant, June 25, 1995, at H1.

earning less than \$10,000 have a telephone penetration rate of 79.8%, while central city households with incomes over \$75,000 have a penetration rate of 98.8%. Furthermore, for low-income households, the central city penetration rate is 78.8%, while the overall urban penetration rate is 81.0%.<sup>11</sup>

Moreover, the DC PSC recommends that concerns for urban low-income consumers should be considered in evaluating and expanding Federal universal support mechanisms. This group of consumers suffers acutely from many national problems and in a manner distinct from rural low-income consumers. The 1996 Act does not articulate clearly a principle,<sup>12</sup> or draw a distinction between urban consumers, to address the unique needs of the urban poor.<sup>13</sup>

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<sup>11</sup> An earlier study noted that in March of 1993, 94.2% of American households had telephone service. Less than 73% of low-income households (below an annual income of \$5,000) had telephone service, while low-income African-American households had a subscribership rate of only 65.5%. The Monitoring Report, CC Docket No. 87-339, Prepared by Staff of the Federal-State Joint Board, CC Docket No. 80-286, May 1994, p. 32.

<sup>12</sup> The lack of clarity derives from the language of Section 254(b)(3) of the 1996 Act. The particular section is captioned "Access In Rural and High Cost Areas" and provides that "consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services...." The Conference Report explains that the new section is intended to include "low-income" consumers to the list of those entitled to services. The Conference Report language, however, does not require or imply that entitlement is conditioned upon being located in a rural community. See Conference Report at 131.

<sup>13</sup> The DC PSC would also raise as a potential issue the need to define what constitutes "low-income" in the context of the provision of universal telecommunications services. We note that Southwestern Bell Telephone in its comments proposes using the Federal poverty level standards (e.g., \$12,600 for a family of four). See SWBT Comments at 7. Given the substantial social and economic benefits available through access to the telecommunica-

Failure to recognize urban low-income consumers as a distinct group of consumers will aggravate the existing inaccessibility to services that urban low-income consumers experience. Therefore, the DC PSC recommends that the FCC adopt an additional universal service principle which recognizes the needs of urban low-income consumers.

#### IV. INCREASING THE SUBSCRIBER LINE CHARGE (SLC)

- A. The FCC should refrain from imposing additional increases to end user charges and transfer the recovery of long term support payments to the universal service fund.**

The Commission requested interested parties to comment on whether the interstate common carrier line charge (CCLC) should be eliminated or reduced and whether local exchange carriers (LECS) should be permitted to recover these costs by increasing end user charges.<sup>14</sup> Several comments were filed recommending that the SLC be increased.

Southwestern Bell Telephone Company (SWBT) predicts that "[e]liminating the interstate CCL and shifting recovery to end-users will lead to substantial economic gains for consumers as access price reductions generate toll reductions." See SWBT Comments at 5. SWBT agrees with the United States Telephone Association's (USTA) proposal to modify the existing SLC cap based

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tions infrastructure, it is important to observe that the six million American households that do not have telephones encompass significant ranges in income levels. See Statement of Kathryn C. Brown, Associate Administrator, Office of Policy Analysis, NTIA before the Federal State Joint Board on Universal Service, April 12, 1996 at 2.

<sup>14</sup> NPRM at para. 114.

on an Interstate Affordability Benchmark, which, as calculated by SWBT for its five States, results in a average spending level for universal service of 1% of median household income. Id. at 11. AT&T proffers in its comments that the CCLC is inconsistent with the directives of the 1996 Act. See AT&T Comments at 16. Therefore, AT&T urges, the SLC should be raised to approximately \$7.00 per subscriber line to fully recover the costs associated with the subscriber loop. Id. Bell Atlantic suggests that the SLC cap be increased by a "modes" amount, twenty-five cents, each year. See Bell Atlantic Comments at 12. It also recommends that the SLC cap be automatically indexed for inflation. Id. The company argues that "[s]uch a moderate approach...recognizes that interexchange carriers benefit from the use of the common line to originate and terminate their calls by charging them for a portion of the [non-traffic sensitive] NTS costs." Id.

The DC PSC concurs with the comments that have urged that the FCC refrain from imposing any additional increases to end user charges.<sup>15</sup> Instead, the DC PSC recommends that the FCC assign NTS

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<sup>15</sup> See New York Department of Public Service (NYDPS) Comments, at 3-4 ("the [state utility commission] does not believe an increase in the SLC is appropriate, and not needed to address the universal service objectives of the 1996 Act. On the contrary, increasing the SLC would be counter to the First universal service principle in the Act that quality services be available at "just, reasonable and affordable rates."); See also Joint State Comments at 17 ("while [we] agree that economic theory may suggest that it is not economically efficient to recover non-traffic sensitive costs on a traffic sensitive basis...interexchange carriers should pay a portion of the non-traffic sensitive loop cost because they use the local exchange carriers, loop plant as a part of the network by which they provide service to their customers.") Note further that MCI, in its comments, states that "eliminating the CCL does not...mean that an increase in the SLC is justified. The

to interexchange carriers (IXCs) on the basis of relative usage, and change the CCLC rate from a per minute basis to per-presubscribed line basis. In addition, we suggest that the recovery of the long-term support payments be transferred to the universal service fund.

The DC PSC also concurs with the Rural Coalition's observations that the NPRM incorrectly characterizes the recovery of loop costs from interexchange carriers as a form of universal services support or subsidy. See Rural Coalition Comments at 17. The DC PSC instead suggests that: (1) embedded cost is a reasonable cost standard;<sup>16</sup> (2) the assignment of cost under the embedded cost standard must be performed in a reasonable manner such that every service, including toll service, is responsible for a reasonable portion of NTS costs; (3) revenues above cost do not always indicate the existence of a subsidy; and (4) generating a common line charge liability is not the same as paying that liability. Therefore, the FCC's characterization of CCLC as providing universal service support is unfounded. The DC PSC agrees with those comments which explain that CCLC revenue represents a payment

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prices for the local loop, including the CCL and SLC charges, are currently well in excess of their economic cost." See MCI Comments at 14.

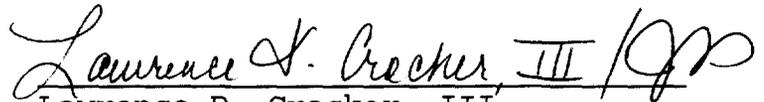
<sup>16</sup> Though the use of the embedded cost standard has been the subject of debate within the regulatory community for many years, it was accepted by the Commission in Docket No. 18128. It is also used by the FCC to separate costs between regulated and non-regulated services and between interstate and state jurisdictional services.

by the IXCs for use of the local NTS facilities.<sup>17</sup>

**V. CONCLUSION**

The Public Service Commission of the District of Columbia respectfully requests that the Joint Board consider the DC PSC's positions regarding the definitions of the urban benchmark and of the low income consumer under section 254(b)(3) of the 1996 Act. In addition, the DC PSC requests that the Joint Board refrain from imposing additional increases to end user charges and transfer the recovery of long term support payments to the universal service fund.

Respectfully submitted,

  
Lawrence D. Crocker, III  
Acting General Counsel

Public Service Commission of the  
District of Columbia  
450 Fifth Street, N.W.  
Suite 815  
Washington, D.C. 20001

(202) 626-5140

Date: May 8, 1996

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<sup>17</sup> See Note 14, *supra*. See generally, William Melody, "Interservice Subsidy: Regulatory Standards and Applied Economics," in Essays on Public Utility Pricing and Regulation; Williard Mueller, "Conglomerates: A Non-Industry," in The Structure of American Industry; and William Taylor, Rebuttal Testimony on behalf of BellSouth Telecommunications, Inc., before the Louisiana Public Service Commission, Docket No. U-20883.

**CERTIFICATE OF SERVICE**

I, Josephine Scarlett Simmons, certify that I have served a copy of the foregoing, Reply Comments of the Public Service Commission of the District of Columbia, on all parties on the attached service list by first class mail, postage prepaid, this 8th day of May, 1996.

  
Josephine Scarlett Simmons  
Acting Deputy General Counsel

The Honorable Reed E. Hundt, Chairman  
Federal Communications Commission  
1919 M Street, N.W. -- Room 814  
Washington, D.C. 20554

The Honorable Rachelle Chong, Commissioner  
Federal Communications Commission  
1919 M Street, N.W. -- Room 811  
Washington, D.C. 20554

The Honorable Susan Ness, Commissioner  
Federal Communications Commission  
1919 M Street, N.W. -- Room 832  
Washington, D.C. 20554

The Honorable Julia Johnson, Commissioner  
Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

The Honorable Kenneth McClure, Vice Chairman  
Missouri Public Service Commission  
301 W. High Street, Suite 530  
Jefferson City, MO 65102

The Honorable Sharon L. Nelson, Chairman  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250

The Honorable Laska Schoenfelder, Commissioner  
South Dakota Public Utilities Commission  
500 E. Capital Avenue  
Pierre, SD 57501

Martha S. Hogerty  
Public Counsel for the State of Missouri  
P.O. Box 7800  
Harry S. Truman Building, Room 250  
Jefferson City, MO 65102

Deborah Dupont, Federal Staff Chair  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Paul E. Pederson, State Staff Chair  
Missouri Public Service Commission  
P.O. Box 360  
Truman State Office Building  
Jefferson City, MO 65102

Eileen Benner  
Idaho Public Utilities Commission  
P.O. Box 83720  
Boise, ID 83720-0074

Charles Bolle  
South Dakota Public Utilities Commission  
State Capital, 500 E. Capital Avenue  
Pierre, SD 57501-5070

William Howden  
Federal Communications Commission  
2000 L Street, N.W., Suite 812  
Washington, D.C. 20036

Lorraine Kenyon  
Alaska Public Utilities Commission  
1016 West Sixth Avenue, Suite 400  
Anchorage, AK 99501

Debra M. Kriete  
Pennsylvania Public Utilities Commission  
P.O. Box 3256  
Harrisburg, PA 17105-3265

Clara Kuehn  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Mark L. Long  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Gerald Gunter Building  
Tallahassee, FL 32399-0850

Samuel Loudenslager  
Arkansas Public Service Commission  
P.O. Box 400  
Little Rock, AR 72203-0400

Sandra Makeeff  
Iowa Utilities Board  
Lucas State Office Building  
Des Moines, IA 50319

Philip F. McClelland  
Pennsylvania Office of Consumer Advocate  
1425 Strawberry Square  
Harrisburg, Pennsylvania 17120

Michael A. McRae  
D.C. Office of the People's Counsel  
1133 15th Street, N.W. -- Suite 500  
Washington, D.C. 20005

Rafi Mohammed  
Federal Communications Commission  
2000 L Street, N.W., Suite 812  
Washington, D.C. 20036

Terry Monroe  
New York Public Service Commission  
Three Empire Plaza  
Albany, NY 12223

Andrew Mulitz  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Mark Nadel  
Federal Communications Commission  
1919 M Street, N.W., Suite 542  
Washington, D.C. 20036

Gary Oddi  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Lee Palagyi  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250

Jeanine Poltronieri  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Jonathan Reel  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Brian Roberts  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

Gary Seigel  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Pamela Szymczak  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Whiting Thayer  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Deborah S. Waldbaum  
Colorado Office of Consumer Counsel  
1580 Logan Street, Suite 610  
Denver, CO 80203

Alex Belinfante  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20036

Larry Povich  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20036