



THE COUNCIL OF
ORGANIZATIONAL REPRESENTATIVES ★

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MAY - 7 1996

May 7, 1996

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

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

Dear Mr. Caton:

Enclosed please find the original and four copies of Reply
Comments of the Council of Organizational Representatives in the
above-referenced proceeding.

Sincerely,

Donna Sorkin

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Co-Chair, COR

Enclosures

cc: International Transcription Service
Ernestine Creech (on diskette)

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MAY - 7 1996

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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

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

REPLY COMMENTS OF
THE COUNCIL OF ORGANIZATIONAL
REPRESENTATIVES

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TABLE OF CONTENTS

SUMMARY ii

I. The Access Needs of Individuals with Disabilities
Must be Considered and Addressed in our Nation's
Universal Service Policies 2

 A. Section 254(b)(7) Requires the Joint Board and
 the Commission to Consider the Needs of
 Individuals with Disabilities in the
 Development of Universal Service Policies 3

 B. Individuals with Disabilities Must be Included
 within Universal Service Principles Because
 They Have Amongst the Lowest Incomes in
 our Nations. 6

II. Universal Service Support Mechanisms Should Fund
Specialized Customer Premises Equipment 7

III. The Commission Must Consider the Needs of Individuals
with Disabilities when Defining other "Core"
Services Eligible for Universal Service Support 9

 A. Touch Tone Service 9

 B. Access to Emergency Services 10

IV. Periodic Reviews of Universal Service Mechanisms
Must take into Account the Access Needs of Individuals
with Disabilities 11

V. The Access Needs of Students with Disabilities Must be
Considered in Universal Service Requirements for
Classrooms 11

VI. Principles of Affordability Must Consider Costs to
Individuals with Disabilities 12

VII. Efforts to Publicize the Availability of Services
Subsidized by Federal Support Mechanisms Must be in
Accessible Format 14

VIII. Provisions for Free Access to Telephone Service
Information Must Include Relay Calls for this Purpose . 14

IX. Conclusion 15

SUMMARY

The Telecommunications Act of 1996 directs the Joint Board and the Commission to adopt universal service principles that are necessary for the protection of the public interest, convenience, and necessity. These principles are intended to supplement, rather than replace, already existing principles of universal service that have characterized the 1934 Communications Act. Accordingly, the Joint Board and the Commission must give significant weight to more than a decade of federal legislative and administrative actions to expand telecommunications access for individuals with disabilities, all founded upon the universal service obligation. Through legislation such as the Telecommunications for the Disabled Act of 1982, the Hearing Aid Compatibility Act of 1988, and Title IV of the Americans with Disabilities Act, Congress has consistently stated that universal service cannot be achieved without ensuring such access.

New telecommunications technologies are frequently not a luxury, but rather are indispensable for individuals with disabilities wishing to fully participate in an information-based society. Accordingly, the mandate to ensure the availability of universal service to all Americans requires the Joint Board and the Commission to fully incorporate the telecommunications access needs of these individuals into our nation's universal service policies. Among other things, this can be accomplished by using universal service support mechanisms to provide specialized equipment distribution programs, discounted TTY toll rates,

- iii -

accessible alternatives to voice-based touch tone services, enhanced 911 services, and accessible services and equipment in our nation's classrooms.

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REPLY COMMENTS OF

THE COUNCIL OF ORGANIZATIONAL REPRESENTATIVES

The Council of Organizational Representatives (COR) submits these reply comments in response to the Notice of Proposed Rulemaking and Order Establishing Joint Board, FCC 96-93 (released March 8, 1996) ("Notice") in which the Federal Communications Commission ("FCC" or "Commission") has sought comment on implementing the universal service mandates of the Telecommunications Act of 1996 ("1996 Act"). COR is a coalition of national organizations that are committed to improving the lives of individuals who are deaf or have a hearing loss. Constituencies of COR organizations provide a variety of services, including technological and telecommunications services, educational programs, social and rehabilitation services, support groups and self-help programs, and general information on other services for deaf and hard of hearing consumers. Among other things, COR serves as a bridge among interested organizations, the general public, and the community of people with disabilities on matters concerning deaf, hard of

hearing, and speech impaired individuals.¹

I. The Access Needs of Individuals with Disabilities Must be Addressed in our Nation's Universal Service Policies

In the Telecommunications Act of 1996, Congress mandated a nationwide universal service policy which will enable all Americans to have access to advanced telecommunications and information services at just, reasonable, and affordable rates.² This directive is explicit in its breadth and scope, i.e. as our nation's telecommunications technologies expand, all Americans are to reap the benefits of these technologies.

For individuals with disabilities, these technologies hold particular promise to facilitate and improve their ability to exchange news and information, receive an appropriate education, and participate in other services that provide a vital link to the mainstream of our society. As explained in comments submitted by the American Foundation of the Blind (AFB), for millions of individuals with disabilities, accessible telecommunications technologies are frequently not a luxury, but rather a necessity because these individuals may have no other

¹ COR's membership includes the following organizations: Alexander Graham Bell Association, American Academy of Otolaryngology - Head & Neck Surgery, American Deafness and Rehabilitation Association, American Society for Deaf Children, American Speech-Language-Hearing Association, Auditory-Verbal International, Inc., The Caption Center, Conference of Educational Administrators Serving the Deaf, Convention of American Instructors of the Deaf, League for the Hard of Hearing, National Association of the Deaf, National Captioning Institute, National Cued Speech Association, Registry of Interpreters for the Deaf, Self Help for Hard of Hearing People, Inc., Telecommunications for the Deaf, Inc.

² 1996 Act §254(b).

means to participating in an information-based society.³

Congress recognized the need to require accessible telecommunications products and services for individuals with disabilities in Section 255 of the Telecommunications Act of 1996. Although this section begins to address access issues, many of the issues which are now before the Joint Board and the Commission, including who will be eligible to benefit from universal service support mechanisms, are not covered by Section 255. Thus, it is critical that the access needs of individuals with disabilities are addressed in the development and implementation of our nation's universal service policies.

A. Section 254(b)(7) Requires the Joint Board and the Commission to Consider the Needs of Individuals with Disabilities in the Development of Universal Service Policies.

Section 254(b)(7) of the Telecommunications Act of 1996 directs the Joint Board and the Commission to adopt universal service policies that are necessary for the protection of the public interest, convenience, and necessity. The Commission has made clear that its obligation to define these policies is to expand upon, but not replace already existing universal service principles under the 1934 Communications Act. For example, in its Notice, the Commission states that the principles under Section 254 "particularize and supplement" its responsibility

³ AFB Comments at 2. AFB demonstrates this point by noting that accessible communications networks now enable people who are blind to read newspapers. Similarly, the Internet is rapidly become indispensable for communication among, and information gathering by, persons who are deaf and hard of hearing.

under the 1934 Act, as amended by the 1996 Act.⁴ Toward this end, in promulgating its new policies for universal service, the Commission must give significant weight to more than a decade of federal legislative and administrative actions which relied upon the universal service obligation to expand telecommunications access for individuals with disabilities. As far back as 1982, Congress relied upon the universal service obligation in passing the Telecommunications for the Disabled Act.⁵ In that Act, Congress, for the first time, addressed the issue of disability access to telecommunications services by allowing carriers to continue providing subsidies for specialized equipment needed by persons with hearing, speech, vision or mobility disabilities.⁶ Congress turned to the FCC's universal service obligation to achieve this result:

Disabled persons who are unable to afford the full costs of [specialized] equipment will lose access to telephone service. This would disserve the statutory goal of universal service, deprive many individuals of the

⁴ Notice at ¶3; see discussion on this point in the Comments of Joint Commenters at 5-6.

⁵Pub. L. No. 97-410, codified as amended at 47 U.S.C. §610 (1988).

⁶ See 47 U.S.C. §610(g). Congress took this action to counter the potentially negative effects of an FCC ruling separating the sale and rental of customer premises equipment from regulated services. Second Computer Inquiry, 77 F.C.C. 2d 384, 446-47 (1980), recon. 84 F.C.C. 2d 50 (1981), further recon. 88 FCC 2d 512 (1981), aff'd sub nom. Computer & Communications Indus. Assoc. v. FCC, 693 F. 2d 198 (D.C. Cir. 1982). Because many telephone companies had been offsetting the high costs of providing specialized equipment, such as text telephones and artificial larynxes, with revenues from other services, the FCC's ruling might have caused persons with disabilities to bear the full costs of their equipment.

opportunity to have gainful employment . . .⁷

Similarly, beginning with the 1982 Act, Congress has consistently employed the universal service obligation to require that certain telephones be hearing aid compatible.⁸ In 1988, Congress expanded this obligation in the Hearing Aid Compatibility Act by directing that nearly all telephones made or imported into the United States after August 16, 1989 be compatible for use with telecoil-equipped hearing aids.⁹ Again, Congress concluded that complete and equal access for persons with disabilities was mandated by the 1934 universal service obligation, noting that advances in technology now required that such individuals be included in "all the people" referred to in the original universal service obligation language.¹⁰

Finally, in 1990, Congress relied upon the universal service obligation in passing Title IV of the Americans with Disabilities Act (ADA), which requires the establishment of nationwide 24 hour telecommunications relay services.¹¹ Congress once again

⁷ H.R. Rep. No. 888, 97th Cong., 2d Sess. 4 (1982) (emphasis added).

⁸ 47 U.S.C §610(b).

⁹ Pub. L. No. 100-394, codified at 47 U.S.C. §610 (1988).

¹⁰ H.R. Rep No. 674, 100th Cong., 2d Sess. 7 (1988). Noting that the telephone is a "major and indispensable part in the business and social lives of all Americans," the House Committee on Energy and Commerce concluded that, without telephone access, individuals with hearing disabilities "are put at a significant disadvantage, *id.* at 3, [and that] . . . [t]he inability to use all the telephones imposes social and economic costs on not only the hearing impaired, but the whole nation." *Id.* at 7.

¹¹ Pub. L. No. 101-336, codified at 47 U.S.C. §225.

explained such reliance:

The goal of universal service has governed the development of the Nation's telephone system for over fifty years. The inability of over twenty-six million Americans to access fully the Nation's telephone system poses a serious threat to the full attainment of the goal of universal service.¹²

The above Congressional actions set the historical stage for inclusion of individuals with disabilities within our nation's universal service policies.

B. Individuals with Disabilities Must be Included within Universal Service Principles Because They Have Amongst the Lowest Incomes in our Nation

In addition to relying upon the history of our nation's telecommunications policies with respect to individuals with disabilities, Section 254(b)(3) requires consideration of the needs of such individuals in this docket. Among other things, Section 254(b)(3) requires the Joint Board and the Commission to ensure that "low-income consumers . . . have access to telecommunications and information services".

It is undisputed that individuals with disabilities, as a group, have among the lowest incomes in the United States.¹³ Moreover, families headed by a person with a disability are amongst the poorest in the nation. Because individuals with disabilities make up so large a percentage of the low income population, the access needs of these individuals must be

¹² S. Rep No. 116, 101st Cong., 1st Sess. 77-78 (1989).

¹³ See Reply Comments of United Cerebral Palsy Associations; Reply Comments of NAD et. al.

considered in any and all efforts to make telecommunications and information services universally available.

II. Universal Service Support Mechanisms Should Fund Specialized Customer Premises Equipment

The Commission has requested comment on the extent to which certain "core" services should be designated to receive universal service support.¹⁴ First, the Commission has proposed support for "voice grade access to the public switched network," noting such service to be indispensable.

We agree that basic access to the public switched network meet the criteria of Section 254(c)(1) of the 1996 Act. To date, however, basic access to the network comes at a very high price for consumers with disabilities -- a price which many of these consumers cannot afford. Specifically, these consumers typically must purchase specialized customer premises equipment to "hook up" to the public switched network. The costs of these devices - averaging from a few hundred dollars for a TTY to as much as \$3000 for a telebraille - are typically much greater than the cost of basic telephone equipment needed by the general population, and prevent many individuals from subscribing to basic telephone services.

In the early to mid 1980's a number of states began to recognize the low subscribership levels among individuals with disabilities. These states began to address this problem by establishing equipment distribution programs that distribute

¹⁴ Notice at ¶16.

these devices free of charge or at substantially reduced rentals. The equipment distributed through these programs has included, but has not been limited to, TTYs, telephone signalling devices (flashing lights, loud ringers, or vibrators), telebraille machines, amplifiers and volume control telephones, artificial larynxes, and breath activated telephones.

Unfortunately, approximately half of the states remain without any equipment distribution programs whatsoever. In addition, because of limited funding, most states that have programs do not offer the full variety of equipment needed to access the network by people with disabilities, but rather restrict their distribution to a limited selection of devices. Funding shortages force other states to impose a complex system of priorities to receive the equipment, based on income, degree of impairment, family size, and living arrangements. As a consequence, equipment distribution programs have varied widely in their success at providing access for the disabled community.

Universal service for all Americans will only come about if all persons, including persons with disabilities, have the basic tools to access the public switched network. Accordingly, we urge that the universal service support mechanisms be used in part to ensure the provision of specialized customer premises equipment to individuals with disabilities through equipment distribution programs in all fifty states. Moreover, because universal access to services and equipment is a matter of right under universal service principles, we oppose the use of a means

test or other economic considerations in determining who will be eligible to receive equipment through these programs. Finally, we urge that subsidies be available for the placement of specialized customer premises equipment not only in residences, but also in locations, such as private social service agencies and schools which have frequent need for this equipment, where such entities are otherwise unable to afford the purchase of such equipment.

III. The Commission Must Consider the Needs of Individuals with Disabilities When Defining other "Core" Services Eligible for Universal Service Support.

The FCC identifies other "core" services which should receive universal service support, including touch tone service and access to emergency services. We offer the following comments with respect to these services.

A. Touch Tone Service

Although access to automated information systems through touch tone services is proliferating, these interactive voice telephone services remain virtually unusable for TTY users, many hard of hearing users of voice telephones, individuals who have difficulties with manual dexterity, and individuals with cognitive impairments. Interactive services are also inaccessible through relay systems because relay operators do not have sufficient time to respond to interactive prompts after relaying the choices to TTY callers.

The FCC has noted that access to automated information systems "may be essential for effective use of educational

services, [and that such access] increases the speed at which subscribers are able to reach emergency service providers."¹⁵

However, because these systems remain inaccessible to such a substantial part of our population, universal service principles must ensure an alternative means of accessing these services. Accordingly, we urge that universal service support be allocated to (1) uniformly provide individuals with the ability to "opt out" of an automated system in favor of a live individual, and (2) fund the use of new technologies which enable TTY users to directly access automated educational and emergency services.

B. Access to Emergency Services

COR agrees with the FCC that access to enhanced 911 services, including automatic number identification and automatic location information, should be among the services that receive universal service support. Although the ADA requires all locally operated 911 systems to be accessible to TTYs, many emergency personnel throughout the country have not been trained to handle TTY emergency calls. The consequence is that all too often, 911 personnel, not hearing a voice at the other end of the call, simply hang up on an emergency caller. Automatic number and location information has been effective in providing quick and efficient responses to TTY calls. By providing immediate notice to the 911 dispatcher that the caller is deaf or hard of hearing, these enhanced services eliminate the time often wasted when a dispatcher tries to establish voice contact with a TTY caller.

¹⁵ Notice at ¶19.

IV. Periodic Reviews of Universal Service Mechanisms Must take into Account the Access Needs of Individuals with Disabilities.

The Commission will periodically review, based on Joint Board recommendations, the definition of services supported by universal service mechanisms, and seeks guidance on how to evaluate that definition in the future.

Lack of access to telephone service has been a major factor contributing to the isolation of individuals with hearing, speech and other communication disabilities. As emerging technologies expand the concept of universal service beyond "plain old telephone service," it is critical that the needs of such individuals be considered in accordance with two principles:

(1) When a particular service or technology is identified for universal service support, the costs of funding access to that service or technology for individuals with disabilities must be included in calculating such support; and

(2) In determining which services should be added to the universal service list, strong consideration must be given as to how each of these services can serve the disabled community in the quest for improved health care, educational opportunities and employment.

V. The Access Needs of Students with Disabilities Must be Considered in Universal Service Requirements for Classrooms.

Congress has directed the Joint Board and the Commission to address access to telecommunications services by children in

kindergarten to 12th grade classrooms.¹⁶ As the FCC notes, "[e]xposure to telecommunications services for our nation's school children will provide them with skills needed for jobs in a technologically advanced society."¹⁷ For all too long, inaccessible technologies have prevented children with disabilities from receiving the full benefits of information available through new and advanced telecommunications services. For this reason, it is critical for the Commission to require that whatever Federal support mechanisms are established for these classrooms, sufficient monies be appropriated for access by students with disabilities.¹⁸

VI. Principles of Affordability Must Consider Costs to Individuals with Disabilities

The 1996 Act requires telecommunications services to be available at just, reasonable, and affordable rates. Historically, nondiscrimination principles have dictated that individuals with disabilities pay no more for access to telecommunications services than is required by the general public.¹⁹ Accordingly, when adopting standards of

¹⁶ 1996 Act §254(h).

¹⁷ Notice at ¶72.

¹⁸ For example, although certain speed links may be adequate for transmitting talking head style lectures, a higher capacity, higher speed link would be necessary, and should be incorporated in universal service principles, to enable two way interactive conferencing in sign language in real time for deaf students.

¹⁹ For example, the Communications Act requires that "users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communications services." 47 U.S.C. §225(d)(1)(D).

affordability, care must be taken to ensure that whatever services are generally available to the public at affordable rates are also affordable to people with disabilities. Stated otherwise, the costs of providing access for individuals with disabilities should be incorporated into the overall costs of providing access for the general population; where necessary those costs can be subsidized through universal service support mechanisms.

The Commission also seeks comment on whether universal service support should be based on achieving specific end-user prices. We agree that keeping these prices down is of the utmost importance for individuals with disabilities, and accordingly propose universal service support for discounted long distance TTY rates. The completion of a TTY call takes much longer - at a minimum three times as long - than does a voice call; use of relay services can add even more time to the total length of the call. Just as the Commission now notes that a reduction in service deposits may be necessary to eliminate what is presently an obstacle to initiating telephone service²⁰, so too are discounted TTY toll rates needed to eliminate disincentives to use toll services over the public switched network with TTYs. Although some telephone companies already offer such discounts, these discounts are not uniform throughout the fifty states. A nationwide policy of discounting TTY and relay rates for toll calls would go a long way toward ensuring universal long distance

²⁰ Notice at ¶56.

telephone service for TTY users.²¹

VII. Efforts to Publicize the Availability of Services Supported by Federal Support Mechanisms Must be in Accessible Format.

Section 214(e)(2) of the 1996 Act requires carriers to advertise the availability of services supported by the Federal universal support mechanisms and "the charges for those services 'using media of general distribution.'"²² We urge the Commission to ensure that such information is provided in accessible formats for individuals with disabilities. Accessible formats can include, for example, captioning and video description of public service announcements, as well as large print materials.

VIII. Provisions for Free Access to Telephone Service Information Must Include Relay Calls for this Purpose.

The Commission proposes that subscribers to measured rate service not be required to pay charges for service inquiries regarding phone activation, termination, repair, or information regarding subsidy programs. We support including access to telephone service information within the group of services receiving universal service support. However, we note that, at present, access to a significant number of such information telephone numbers is not directly available to TTYs, but rather must be achieved through telecommunications relay services. Accordingly, should the FCC adopt a rule providing free access

²¹ A uniform TTY discount program could easily be incorporated into the Lifeline and Link Up discount programs.

²² Notice at ¶43, citing Section 214(e)(1).

for measured service subscribers, it must ensure that relay users, as well, receive the benefit of not being assessed for relay calls made to these telephone service information numbers.

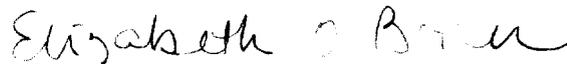
IX. Conclusion

The basic principles of universal service must continue to ensure that all Americans have easy, affordable access to all communications services, regardless of income or disability. Increased access to telecommunications services will be critical for the expansion of employment and educational opportunities for all Americans, and in particular for Americans with disabilities. We call upon the Joint Board and the Commission to ensure that our nation's universal service policies fully incorporate the telecommunications access needs of these individuals, and thank the Commission for the opportunity to submit these views.

Respectfully submitted,



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Convention of American Instructors of the Deaf

Co-Chairs, COR