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Federal Communications Commission
Office of Secretary

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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

COMMENTS OF TELE-COMMUNICATIONS, INC.

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Tele-Communications, Inc. ("TCI") hereby files its responses to certain of the questions listed in the Commission's Public Notice, released July 2, 1996, in the above-captioned proceeding.[1] TCI has restated below only those questions to which it is submitting responses.

I. SUMMARY

In responding to the questions in the Public Notice, TCI has applied two widely accepted principles that the Commission should follow in implementing the provisions of Section 254. First, the federal subsidy pool should be as small as possible to meet the goals articulated in Section 254. Second, the mechanisms for funding and distributing the subsidies should be removed from the Commission's Part 36 rules so that all eligible carriers have

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[1] See "Common Carrier Bureau Seeks Further Comment On Specific Questions In Universal Service Notice of Proposed Rulemaking," (released July 3, 1996). The Public Notice was issued as a follow-up to the issues discussed in the Commission's initial NPRM. See Federal-State Joint Board on Universal Service, Notice of Proposed Rulemaking and Order Establishing Joint Board, CC Docket 96-45 (released March 8, 1996) ("Notice").

equal access to the subsidies. Specifically, TCI recommends the following:

Definitions Issues

- The Commission should set a single, national affordability benchmark based on the national average of rates charged for core services; this benchmark should include, without the need for any adjustment, rate increases appropriately implemented as a result of access charge reform;

- Determinations of "affordability" under Section 254(i) should be based on subscribership levels;

Schools, Libraries and Health Care Providers

- The creation of a subsidy mechanism for schools, libraries and rural health care providers and the choice of the services to which those mechanisms should apply are extremely complex; the Commission should establish an advisory committee to study these issues;

- In this proceeding the FCC should specifically limit the services eligible for subsidy provided to schools, libraries and health care providers to the core services identified in the initial Notice in this proceeding;

- Educational and health care institutions receiving subsidized services should not be permitted to resell those services;

- The FCC should not provide block grants to be distributed to schools, libraries and health care institutions by the states; the FCC should study the possibility of creating direct billing credits for telecommunications services provided to eligible institutions;

- The FCC should study the proposals offered in the Comments for ensuring that funds allocated for discounts are used for their intended purposes and that requests made by schools, libraries and health care providers are bona fide;

- The base service prices to which discounts for schools and libraries are applied should be based on total service long run incremental cost ("TS-LRIC") as determined by a proxy model; where proxy model data are not readily available, the tariffed rate should be used;

- Existing discounts for services provided to schools, libraries and health care providers should continue to apply if they result in a lower rate than the one set by federal subsidies;

- An extra discount should be considered for eligible institutions in economically disadvantaged areas; the Commission should use a model for identifying such institutions that is based on the overall prosperity of school districts and it should probably apply the further subsidy on a step approach;

- In TCI's experience, the cost estimates in the McKinsey Report and NII KickStart Initiative are reliable; the FCC should consider using these estimates for both public and private schools;

<u>**High Cost Fund**</u>

- If the existing universal service program remains in place, Section 254 requires that the FCC ensure that the subsidy is available to all eligible carriers and that all telecommunications carriers providing interstate service contribute to the fund; beyond these changes mandated by the Act, the FCC should also mandate that costs be determined by a proxy model using small geographic units and that the fund be administered by a neutral third party;

- Payments to competitive carriers should not be based on the incumbent LEC's costs where a proxy model can be applied;

- If proxy models are used, the Commission should allow price cap LECs to be eligible to receive universal service subsidies;

- The FCC should not establish a committee to form a consensus proxy model; it should instead choose the best model and make any appropriate modifications;

- Where data are not available for proxy models, the cost of providing service should be based on the book costs for core services of the incumbent LEC until proxy model data become available;

- The states should be given responsibility for protecting against service degradation in the proxy model context;

- The FCC should grant waivers of its universal service rules where a carrier can demonstrate that its costs (resulting from prudent investment are 150% of the projected proxy level;

- Any proxy model adopted should be a public document;

- The Commission should not adopt a bidding system at this time because there is not sufficient facilities-based competition to support such an approach; if a bidding system is adopted, the winning bidder should probably be offered an extra subsidy to give the auction participants the incentive to bid low;

SLC/CCL

- The subscriber line charge ("SLC") should be increased to replace the carrier common line ("CCL") charge; any concerns as to local rate "sticker shock" can easily be addressed by shifting the CCL to the SLC over an appropriate transition period;

Low-Income Consumers

- The Commission should reform the current Lifeline and Linkup programs as follows: a neutral third party should administer the programs; all eligible carriers should be able to receive reimbursement from the Lifeline/Linkup fund; and all carriers providing interstate service should be required to contribute to the fund.

II. RESPONSES TO SELECTED QUESTIONS

Definitions Issues

1. Is it appropriate to assume that current rates for services included within the definition of universal service are affordable, despite variations among companies and service areas?

ANSWER:

The Commission should use the current rates (including both the interstate and intrastate components of those rates) for core services as the basis for determining a single, national affordability benchmark. Specifically, the Commission should set the national affordability benchmark at the national average of rates charged for the core services.[2] This affordability benchmark should include, without the need for any adjustment, any increase in the federal SLC, as well as increases in state

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[2] There is support among the commenters for such an approach. See e.g., Comments of Sprint at 4; Comments of AT&T at 16-17; Reply Comments of MCI at 1-2

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SLCs, appropriately implemented as a result of access charge reform and state rate rebalancing.[3]

The current nationwide subscribership level of 94%[4] demonstrates that existing rates, when combined with targeted subsidy programs such as Linkup and Lifeline, are affordable. Indeed there is evidence that rates for local residential service could rise significantly and still remain affordable.[5] Moreover, while it is important for regulators and carriers to strive to raise this penetration figure even higher, lowering the national affordability benchmark is not the appropriate means of doing

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3 As AT&T points out, a higher SLC will be offset, at least partially, by lower long distance rates. See Comments of AT&T at 16.

4 See Com. Car. Bur., Industry Analysis Div., Monitoring Report, CC Docket No. 87-339 at 12 (May, 1995).

5 For example, although rural rates are often subsidized, studies have estimated that anywhere between approximately 80% and 93% of rural subscribers would be able to afford the full cost of telephone service. See Carol Weinhaus, et al., Telecommunications Indus. Analysis Project, "What is the Price of Universal Service? Impact of Deaveraging Nationwide Urban/Rural Rates" at 18 (1993) (concluding that 92.7% of rural households could afford the full cost of telephone service); Organization for the Protection & Advancement of Small Tel Cos., "Keeping Rural America Connected: Costs and Rates in the Competitive Era" at ES-6 (1994) (predicting 79.6% of subscribers willing and able to pay the full cost of telephone service). Furthermore, despite predictions to the contrary, subscribership has not declined in the past when local rates have increased. See MTS and WATS Market Structure; Amendment of Part 69 of the Commission's Rules and Establishment of a Joint Board, 59 Rad. Reg. 2d 551 (1985) (concluding that the increase in rates following the divestiture did not reduce subscribership levels).

so.[6] Lowering rates below their current levels would needlessly increase the size of the subsidy pool required to keep those rates down. Increasing the subsidy pool will create entry barriers to telecommunications markets by raising the contribution each telecommunications carrier providing interstate services must make. Targeted subsidies such as the Lifeline and Linkup programs are much more effective and efficient means of increasing use of the public switched network among groups that have disproportionately low subscribership levels.[7]

2. To what extent should non-rate factors, such as subscribership level, telephone expenditures as a percentage of income, cost of living, or local calling area size be considered in determining the affordability and reasonable comparability of rates?

ANSWER:

Section 254(i) requires that "[t]he Commission and the States should ensure that universal service is available at rates that are just, reasonable, and affordable."[8] The common dictionary meaning of "affordable" is "to be able to bear the

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6 It is far from clear that lowering rates through subsidies would materially increase subscribership at this point. There are any number of reasons why people do not elect to have phone service, and there is nothing in the record to suggest that all, or even a majority of, the non-subscribing 6% households do not subscribe because they cannot afford to do so.

7 Studies have found that the Lifeline program, for example, is effective at targeting recipients who need assistance. See e.g., Thomas Makarewicz, "The Effectiveness of Low-Income Telephone Assistance Programs: Southwestern Bell's Experience," 15 Telecomm. Pol'y 223, 232-36 (1991) (estimating that 80% of Lifeline assistance recipients depend on the subsidy to afford telephone service).

8 47 U.S.C. § 254(i).

cost of."[9] It is safe to say that a consumer who subscribes to telephone service is "able to bear the cost of" that service. As mentioned above, subscribership levels are therefore an appropriate basis upon which to gauge the affordability of the core services to which for universal service subsidies should apply.

It would be inappropriate, however, for the Commission to consider other factors in determining the level at which prices are "affordable." The application of such factors as telephone expenditures as a percentage of income and cost of living is simply too complex and costly. Subscribership is a far more reliable and simple standard.

As to assessing the comparability of rates, a single, national benchmark for affordability would ensure that rates across the country, in rural and urban areas, would be reasonably comparable as contemplated by Section 254(b)(3). Moreover, that provision concerns only the comparability of rates and services in rural and urban areas. The Commission need not and should not consider factors other than rate levels and the quality of service in determining whether the aspirational requirements of Section 254(b)(3) have been met.

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9 See Webster's Ninth New Collegiate Dictionary (1983). The definition taken from the Webster's New World Dictionary referred to in the Notice is similar: "to have enough or the means for; bear the cost of without serious inconvenience." See Notice at ¶ 4 n.12.

3. <u>When making the "affordability" determination required by Section 254(i) of the Act, what are the advantages and disadvantages of using a specific national benchmark rate for core services in a proxy model?</u>

ANSWER:

A single, national benchmark rate for core services in a proxy model holds several advantages over an approach that would permit variations among regions or subscribers. First, the single benchmark (i.e., a national average of all prices currently charged for the core services, including any increases that result from access charge reform) would be easy and inexpensive to administer. Permitting variations based on geography or consumer characteristics for price levels, however, would consume scarce administrative resources in an endeavor that would in any case be inexact.

For example, a benchmark that varies according to the cost of living in a region would require regulators to choose a mechanism for measuring such costs as well as the geographic units to which the mechanism would be applied, both of which are likely to be contentious issues. Such a system would also be administratively burdensome because, to achieve an acceptable level of accuracy, the FCC would have to use relatively small geographic units, such as census block groups ("CBGs"). Small geographic units are appropriate for determining the level of the subsidy because they target subsidies to truly rural areas thus increasing the contribution to those areas over current levels. But determining a different level of affordability for each CBG would likely be unnecessarily costly. Moreover, such an approach to affordability would also likely require regulators to adjudicate disputes arising out of such region-by-region affordability determinations.

Second, a single national benchmark for affordability will be less expensive for compliance by carriers eligible under Section 214(e) to receive the universal service subsidy. Simply put, the more complex the approach adopted by the Commission for determining the benchmark for affordability, the more expensive it is likely to be for eligible carriers to participate in the federal subsidy program. Variations across many geographic units will require similar variations in business plans for each of those areas. Also, to the extent that such benchmarks change over time, business plans would again need to change to accommodate the new benchmarks. Business planning under a single, national benchmark regime, on the other hand, would be simpler and less expensive.

4. <u>What are the effects on competition if a carrier is denied universal service support because it is technically infeasible for that carrier to provide one or more of the core services?</u>

ANSWER:

Section 214(e) of the Communications Act defines the obligations carriers must meet to be eligible to receive federal universal service subsidies.[10] Subsection (1)(A) of Section 214(e) states that an eligible telecommunications carrier must offer the services supported by federal universal service support

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[10] <u>See</u> 47 U.S.C. § 214(e).

mechanisms "either using its own facilities or a combination of its own facilities and resale of another carrier's services (including services offered by another eligible telecommunications carrier)."[11] If the Commission adopts the appropriately limited list of core services proposed in the <u>Notice</u>[12] and supported by TCI,[13] it is unlikely that a facilities-based carrier could not provide those services using its own network or a combination of its own network and resale. Even a predominantly non-facilities based provider could offer the core services through resale. The Commission should not therefore be concerned about the possibility that a carrier would be denied reimbursement if it could not provide a subsidized service.

Schools, Libraries, Health Care Providers

6. <u>Should the services or functionalities eligible for discounts be specifically limited and identified, or should the discount apply to all available services?</u>

ANSWER:

The services eligible for universal service discounts should be specifically limited to the core services proposed in the Commission's <u>Notice</u>.[14] The Commission should not add any

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[11] 47 U.S.C. § 214(e)(1)(A).

[12] <u>See</u> <u>Notice</u> at ¶ 16.

[13] <u>See</u> Comments of TCI at 5-9.

[14] <u>See</u> <u>Notice</u> at ¶ 16. Although the Commission should restrict the list of services eligible for the Section 254(h)(1) subsidy to the core basic services, it should be pointed out that the Commission has the authority under that provision

services to this list. Most importantly, the Commission should determine that market forces, in conjunction with existing taxation and educational programs, can be relied upon instead of expensive subsidy programs to deliver advanced and information services to schools, libraries and health care providers.[15] In any case, prior to acting upon its discretionary authority to expand the size and scope of the subsidy program for schools, libraries and health care providers, the Commission must undertake careful study assessing the costs and benefits of doing so.[16]

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to set a steeper discount for the core services when provided to schools, libraries and rural health care providers than would otherwise apply to other end-users. See Notice at ¶¶ 78-82.

15 The Comments provide extensive evidence that telecommunications carriers and cable operators are offering or have plans to offer advanced services to schools and libraries at low rates independent of any mandatory subsidy to do so. See Comments of Continental Cablevision at 4; Comments of NCTA at 16; Reply Comments of Pacific Telesis at 11-12; Reply Comments of Ameritech at 19; Reply Comments of AT&T at 23. For example, TCI recently announced that it, in conjunction with other cable companies, would provide free Internet access (via high-speed cable modems) to more than 3,000 schools in 60 communities within the next 12 months. See "Cable Companies to Give Schools High-Speed Links to the Internet," NY Times (July 10, 1996).

16 Several commenters in this proceeding have suggested that the Commission refer the complex issues surrounding the provision of universal services to schools, libraries and rural health care providers to a telecommunications advisory board or council consisting of experts in these fields. See Comments of NYNEX at 20; Reply Comments of Pacific Telesis at 14; Reply Comments of AT&T at 22-23; Reply Comments of NCTA at 21.

7. <u>Does Section 254(h) contemplate that inside-wiring or other internal connections to classrooms may be eligible for universal service support of telecommunications services provided to schools and libraries? If so, what is the estimated cost of the inside-wiring and other internal connections?</u>

ANSWER:

Section 254(h)(1)(B) states that telecommunications carriers shall provide any of their "services" to schools and libraries.[17] The FCC has already determined that inside-wiring is not a common carrier service, that is, it may be supplied by carriers and non-carriers outside the regulatory process.[18] Thus, inside wiring is not among the mandated list of subsidized carrier services.

There are good policy reasons for not subsidizing inside wiring. As with other aspects of subsidizing services for educational institutions, an internal connections subsidy could, if improperly designed, be extremely expensive and inefficient. This is especially true if the costs of retrofitting and asbestos removal (which are usually required for installing inside-wiring in older schools) are subsidized.[19] Again, increasing the size of the subsidy pool raises entry barriers by increasing interstate carriers' required contributions to universal service.

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17 47 U.S.C. § 254(h)(1)(B).

18 <u>See</u> <u>Detariffing the Installation and Maintenance of Inside Wiring</u>, Memorandum Opinion and Order, 1 F.C.C.R. 1190, 1992 (1986), <u>recon.</u> 3 F.C.C.R. 1719, 1720-1721 (1988).

19 <u>See</u> McKinsey & Company, Inc., "Connecting K-12 Schools to the Information Superhighway," (report prepared for the National Information Infrastructure Advisory Council ("McKinsey Report")) (1996) at Appendix A.

What is more, even though sound policy may dictate the exclusion of the additional costs of retrofitting and asbestos removal from any proposed subsidy, difficult issues may arise in separating the costs of inside-wiring from the costs associated with renovating the physical plant. Further, given the Commission's long-standing policy of deregulated inside-wiring, this market is comprised of literally thousands of small companies whose business could be dramatically affected by the adoption of a subsidy program.

9. <u>How can universal service support for schools, libraries, and health care providers be structured to promote competition?</u>

ANSWER:

Universal service support for schools, libraries, and rural health care providers can be structured to promote competition by (1) setting the subsidy at the minimum level necessary to provide schools access to the core telecommunications services, (2) ensuring that all telecommunications carriers can receive the subsidy, and (3) making the subsidy system easy to administer. But while many parties agree on these broad principles, the diversity of specific proposals in the Comments indicates that there is no consensus as to what program approaches would best promote competition.[20] This subject clearly warrants further investigation.

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20 <u>See</u> <u>e.g.</u>, Reply Comments of Southwestern Bell at 11; Reply Comments of Pacific Telesis at 11.

The Commission's task under section 254(h) must be appreciated in its full scope. The Commission has, in effect, been assigned the job of potentially designing a new wealth transfer program in areas that exceed its traditional jurisdictional bounds. It has to date appropriately consulted with the Department of Education, but much more study -- drawing upon required expertise from a variety of disciplines -- will be necessary before any adequate program can or should be developed. A panel of experts in social programs, telemedicine, library studies, education, taxation, information services and the telecommunications industry, all need to be assembled, and the Commission must bring their collective insights and experiences to bear upon this complex issue. Absent detailed, expert consideration, the FCC's program will be in serious jeopardy of overshooting or undershooting its mark -- and significantly impeding core FCC competition policies in the process. Just by way of a single example, there is a danger that a program might be developed at significant cost to support services, but that such investment would go underutilized due to lack of training. It has, in fact, been TCI's experience that training is a critical element for educational services, and that in its absence, enormous resources are wasted.[21]

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21 Other commenters have made comparable observations. As noted by NYNEX, "simply making telecommunications services available, without the associated equipment and software and professional training and support, and without an understanding of whether those services will meet the user's needs, would not accomplish the goals of the Act." Comments

For these reasons, TCI urges the Commission to await any formulation of subsidy programs in this area until it has obtained, perhaps through the expansion of its Education Task Force to include non-FCC participants, the full input of all required experts in this area.

10. Should the resale prohibition in Section 254(h)(3) be construed to prohibit only the resale of services to the public for profit, and should it be construed so as to permit end user cost based fees for services? Would construction in this manner facilitate community networks and/or aggregation of purchasing power?

ANSWER:

Section 254(h)(3) states that services and capacity sold to qualifying institutions under Section 254(h) "may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value."[22] This provision is clear on its face: recipients of subsidized services under Section 254(h) may not transfer those services to others.

11. If the answer to the first question in number 10 is "yes," should the discounts be available only for the traffic or network usage attributable to the educational entities that qualify for the Section 254 discounts?

ANSWER:

Discounts should be available only for the traffic or network usage attributable to the educational entities that qualify for the Section 254 discounts.

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of NYNEX at 19. See Remarks of Frank J. Gumper, Vice-President, Federal Regulatory Planning, NYNEX, to the Federal-State Joint Board (April 12, 1996); Comments of BellSouth at 17-18.

22 47 U.S.C. § 254(h)(3).

12. Should discounts be directed to the states in the form of block grants?

ANSWER:

Discounts should not be directed to the states in the form of block grants. It is sound policy to give purchasing power and decision-making ability directly to the schools, libraries and rural health care providers rather than to the states.

13. Should discounts for schools, libraries, and health care providers take the form of direct billing credits for telecommunications services provided to eligible institutions?

ANSWER:

The Commission should study the possibility of creating direct billing credits for telecommunications services provided to eligible institutions.

15. What is the least administratively burdensome requirement that could be used to ensure that requests for supported telecommunications services are bona fide requests within the intent of section 254(h)?

ANSWER:

While many of the approaches recommended in the Comments hold promise,[23] there is inadequate information on the record for determining which is the most effective. This issue requires further study by the Commission.

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[23] See Letter from Mark Mandell, Senior Policy Advisor, MCI, to William F. Caton, Secretary, Federal Communications Commission, ex parte, at 1, 6-7 (June 6, 1996); Letter from Maurice P. Talbot, Jr., Executive Director - Federal Regulations, BellSouth, to William F. Caton, Secretary, Federal Communications Commission, ex parte (June 6, 1996); Comments of USTA at 7-9; Comments of GTE at 20; Reply Comments of Pacific Telesis at 14; Reply Comments of Bell Atlantic at 1.

16. <u>What should be the base service prices to which discounts for schools and libraries are applied: (a) total service long-run incremental cost; (b) short-run incremental costs; (c) best commercially-available rate; (d) tariffed rate; (e) rate established through a competitively-bid contract in which schools and libraries participate; (f) lowest of some group of the above; or (g) some other benchmark? How could the best commercially-available rate be ascertained, in light of the fact that many such rates may be established pursuant to confidential contractual arrangements?</u>

ANSWER:

If only the core services are subsidized, the base service price could be based on TS-LRIC as determined by a proxy model.[24] Proxy costs should be available for virtually every area of the country. Since TS-LRIC counts only the costs of a state-of-the-art network, reliance on this methodology will limit unnecessary growth in the subsidy pool. In those few areas for which proxy cost data are not available, the Commission should use the tariffed rate.[25]

If, contrary to the comments of many carriers, the Commission decides to add special or advanced services to the list of discounted services for public institutional telecommunications users, then the Commission should either apply the existing proxy methodologies to those services or, if more efficient, use a bidding approach where adequate competition

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24 Letter from Mark Mandell, Senior Policy Advisor, MCI, to William F. Caton, Secretary, Federal Communications Commission, <u>ex parte</u>, at 1, 3 (June 6, 1996); Comments of Wisconsin Dept. of Public Instruction at 2; Comments of American Library Association at (i); Reply Comments of NSBA at 11

25 <u>See</u> Comments of BellSouth at 19.

exists to make such an approach worthwhile. If none of these approaches is possible, then the tariffed rate should be used.

17. <u>How should discounts be applied, if at all, for schools and libraries and rural health care providers that are currently receiving special rates?</u>

ANSWER:

If the federal discounted rate is higher than any special rate schools, libraries and rural health care providers are currently receiving, the special rate should continue to apply. If the federal discounted rate is lower than the current special rate, the discounted rate should apply as of the date the new rules go into effect.

19. <u>Should an additional discount be given to schools and libraries located in rural, insular, high-cost and economically disadvantaged areas? What percentage of telecommunications services (e.g., Internet services) used by schools and libraries in such areas are or require toll calls?</u>

ANSWER:

The Commission should not establish an additional discount for rural, insular or high-cost areas. Schools in those regions may actually be wealthy, and increased subsidy of services would be unnecessary and wasteful. Moreover, rural areas will in any case benefit from the use of small geographic units in setting high cost subsidies. Truly rural areas should receive more support under such an approach than under the current subsidy system. On the other hand, an additional discount should be considered for school districts and library systems located in economically disadvantaged areas.

TCI does not have the information necessary to determine what percentage of telecommunications services (<u>e.g.</u>, Internet services) used by schools and libraries in such areas is or would require toll calls. Of course, as the Commission is aware, Internet calls are interstate or international in scope, but do not incur traditional toll charges.

20. Should the Commission use some existing model to determine the degree to which a school is disadvantaged (e.g., Title I or the national school lunch program)? Which one? What, if any, modifications should the Commission make to that model?

ANSWER:

The Commission should study the use of a model that is based on the wealth of all inhabitants (i.e., families of pupils as well as non-pupils) in a school district. The Commission should not rely on models such as Title I and the national school lunch program that focus primarily on the economic circumstances of the pupils in a particular area (county, school district or individual school) and their families.

21. Should the Commission use a sliding scale approach (i.e., along a continuum of need) or a step approach (e.g., the Lifeline assistance program or the national school lunch program) to allocate any additional consideration given to schools and libraries located in rural, insular, high-cost, and economically disadvantaged areas?

ANSWER:

The Commission should consider adopting a step approach to allocate any additional consideration given to school districts and library systems located in economically disadvantaged areas. Although a sliding scale approach (i.e., along a continuum of need) might be more closely targeted, a step approach is significantly easier to administer and, if the steps are properly set, will be adequately targeted.

22. Should separate funding mechanisms be established for schools and libraries and for rural health care providers?

ANSWER:

There may be good reasons for establishing separate funding mechanisms for schools and libraries on the one hand and for rural health care providers on the other. There is inadequate information in the record at this time, however, to make this determination. The Commission should return to this issue after it has studied the appropriate subsidy mechanisms for these institutions.

23. Are the cost estimates contained in the McKinsey Report and NII KickStart Initiative an accurate funding estimate for the discount provisions for schools and libraries, assuming that tariffed rates are used as the base prices?

ANSWER:

TCI, in providing services to schools and libraries through its subsidiary ETC, has compared the McKinsey cost estimates to the costs incurred in some of its educational projects and found the McKinsey estimates to be quite accurate. Based on this experience, TCI would recommend the use of the McKinsey Report as one possible resource for determining the appropriate subsidy level for schools and libraries.[26] As mentioned in the Bureau's question, the McKinsey estimates assume tariffed rates. TCI

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[26] See also Comments of USTA at 8; Bell Atlantic at 17; Letter from Maurice P. Talbot, Jr., Executive Director - Federal Regulatory, BellSouth, to William F. Caton, Secretary, Federal Communications Commission ex parte (June 6, 1996); Letter from Whitney Hatch, Assistant Vice President, Regulatory Affairs, GTE Service Corp., to William F. Caton, Secretary, Federal Communications Commission, ex parte, (June 3, 1996).

would recommend that those estimates be altered for the use of TS-LRIC costs determined by an appropriate proxy model.

24. <u>Are there other cost estimates available that can serve as the basis for establishing a funding estimate for the discount provisions applicable to schools and libraries and to rural health care providers?</u>

ANSWER:

As stated above, it is TCI's experience that the McKinsey Report cost estimates are accurate. TCI is not aware of any other similarly reliable cost estimates.

25. <u>Are there any specific cost estimates that address the discount funding estimates for eligible private schools?</u>

ANSWER:

TCI is not aware of any specific cost estimates which address the discount funding for eligible private schools. However, TCI believes that the McKinsey Report cost estimates are equally applicable to private schools. It should not cost a carrier any more or less to bring identical services to a private school rather than to a public school.

<u>High Cost Fund</u>

26. <u>If the existing high-cost support mechanism remains in place (on either a permanent or temporary basis), what modifications, if any, are required to comply with the Telecommunications Act of 1996?</u>

ANSWER:

TCI assumes that the term "high cost fund" refers to the existing universal service fund ("USF") which subsidizes those LECs with loop costs above the national average.[27] There are two general aspects of the existing USF that must be altered to comply with the requirements of 1996 Act. First, USF assistance must be available to all eligible carriers as defined by Section 214(e). Under the current USF rules, the subsidy is recovered through the separations process by allocating the excess costs to the LECs' interstate rate base and increasing the access charges levied against long distance carriers. Since new entrants are not subject to the FCC's separations rules, they are currently unable to receive USF assistance. Section 214(e), however, requires that all carriers meeting the standard established therein "be eligible to receive universal service support in accordance with Section 254."[28] The Commission must therefore remove the USF program from its jurisdictional separations rules. It must instead establish a separate fund, administered by a neutral third party, to which all carriers with high loop costs, as defined in the USF rules, have access.

Second, the Commission must ensure that all telecommunications carriers providing interstate services contribute to the USF. As mentioned, only long distance carriers currently contribute to the fund. But Section 254(d) requires that "[e]very telecommunications carrier that provides interstate

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27 To the extent that the Commission is seeking comment on its Dial Equipment Minute Weighting and Long Term Support programs in addition to USF, the comments articulated here apply equally to those program as well. Both of those programs are implemented through the Part 36 separations rules and are funded solely by long distance carriers.

28 47 U.S.C. § 214 e)(1).

telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the . . . mechanisms established by the Commission to preserve and advance universal service."[29] The Commission must therefore establish a requirement that all carriers providing interstate services contribute to the universal service fund in an equitable, competitively neutral, and nondiscriminatory manner.

While these two requirements are essential to bringing the current USF into compliance with the 1996 Act, there are several other changes that the Commission should institute as quickly as possible to increase the fairness and effectiveness of the USF. First, the current USF scheme relies on reported incumbent LEC ("ILEC") costs for determining the loop costs in a particular area. The problem with this system is that it does not give carriers the incentive to control their costs.[30] The Commission should therefore adopt a proxy model for determining the loop costs in a particular area. Under a proxy model, the amount

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29 47 U.S.C. § 254(d).

30 The inefficient incentives created by the USF program are especially serious for those carriers in study areas with 200,000 or fewer working loops because they are permitted to receive a larger reimbursement from the USF than carriers in study areas with more than 200,000 working loops. Specifically, carriers in the former category are permitted to allocate 65% of the unseparated cost per loop between 115% and 150% of the national average cost per loop (in addition to the 25% allocation automatically granted), multiplied by the number of working loops, while carriers in the latter category are only permitted to allocate 10% of such costs between 115% and 160% of the national average. See 36 C.F.R. § 36.631(c), (d)