

because such providers do not substantially benefit from the PSTN. Obviously, to the extent "other providers," such as private network operators, offer interstate telecommunications services, they will be required to contribute to support mechanisms, as discussed above.

#### D. The *De Minimis* Exemption

##### 1. Background

795. The Commission may exempt a carrier or class of carriers from contributing to universal service mechanisms "if the carrier's telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be *de minimis*."<sup>2547</sup> Congress explained that "this authority would only be used in cases where the administrative cost of collecting contributions from a carrier or carriers would exceed the contribution that carrier would otherwise have to make under the formula for contributions selected by the Commission."<sup>2548</sup> In the NPRM, the Commission sought comment on whether we should establish rules of general applicability for exempting very small telecommunications providers, and if so, what the basis should be for determining that the administrative cost of collecting support would exceed a carrier's potential contribution.<sup>2549</sup> Within those parameters, the Commission also specifically sought comment on measures to avoid significant economic harm to small business entities, as defined by section 601(3) of the Regulatory Flexibility Act.<sup>2550</sup> In the Public Notice, the Commission asked what levels of administrative costs should be expected per carrier under the various methods that have been proposed for funding (e.g., gross revenues, revenues net of payments to other carriers, retail revenues, etc.).<sup>2551</sup>

##### 2. Comments

796. *De Minimis - Cost of Collection*. Several commenters discuss the meaning and application of the *de minimis* language in section 254(d).<sup>2552</sup> Some state that only carriers for which the administrative cost of collecting the contribution is more than the amount of the

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<sup>2547</sup> 47 U.S.C. § 254(d).

<sup>2548</sup> Jt. Statement of Managers, S. Conf. Rept. No. 104-230, 104th Cong., 2nd Sess. 131 (1996).

<sup>2549</sup> NPRM at para. 120.

<sup>2550</sup> 5 U.S.C. § 601(3).

<sup>2551</sup> Public Notice at 9.

<sup>2552</sup> See, e.g., ALTS comments at 17-18; Ameritech comments at 23; Illinois CC comments at 10; Teleport further comments at 11.

contribution itself should be eligible for the *de minimis* exemption.<sup>2553</sup> Teleport asserts that administrative costs should include both the administrator's and the contributing carriers' compliance costs.<sup>2554</sup> Although no commenter submitted estimates for administrator and contributor costs, NECA estimates that the administrative cost of billing and collecting contributions, excluding costs incurred by the contributor and any verification costs, would be approximately \$20.00 per carrier per year.<sup>2555</sup> In addition, several commenters state that no carrier should be exempt, because contributor and administrator costs should be minimal if contributions are based on revenues.<sup>2556</sup> These commenters claim that revenue information should be easy to compile because most companies already produce similar revenues figures for tax purposes.<sup>2557</sup> A few commenters suggest that administrative costs cannot be determined until after an administrator is chosen or begins to administer the support mechanism.<sup>2558</sup>

797. *De Minimis - Based on Carrier Revenues.* A few commenters suggest that the *de minimis* exemption should be based on an industry's contribution to total telecommunications revenues. For example, Metricom asserts that since unlicensed Part 15 wireless providers account for less than one half of one percent of total telecommunications industry revenues, their contributions would be *de minimis* compared to the fund as a whole.<sup>2559</sup> Thus, they state unlicensed Part 15 providers should be exempt from contribution. Similarly, MobileMedia argues that paging companies should be exempt because their contribution to the TRS fund in 1994 was less than 0.6 percent of the total fund.<sup>2560</sup> UTC suggests that *de minimis* should be defined in terms of the size of the service offering rather than the size of the provider, i.e., exempting companies for which telecommunications

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<sup>2553</sup> See ALTS comments at 17-18; Ameritech comments at 23; Illinois CC comments at 10.

<sup>2554</sup> Teleport further comments at 11.

<sup>2555</sup> NECA further comments at 43.

<sup>2556</sup> See MCI further comments at 33; NCTA further comments at 26; NYNEX further comments at 48-49; PacTel further comments at 60-61; Sprint further comments at 20; U S West further comments at 31-32.

<sup>2557</sup> See NCTA further comments at 26; PacTel further comments at 60-61; U S West further comments at 31-32.

<sup>2558</sup> See Ameritech further comments at 48; GTE further comments at 61-62; Time Warner further comments at 57-58.

<sup>2559</sup> Metricom comments at 1-6.

<sup>2560</sup> MobileMedia comments at 10-11.

services make up only a small percentage of their total business.<sup>2561</sup> Ameritech adds that exempted carriers should be ineligible to receive support funds.<sup>2562</sup> Other commenters, however, argue that an exemption for *de minimis* carriers would create a negative incentive to underestimate a carrier's size, which could lead to abuse and further burden paying carriers.<sup>2563</sup>

798. Different Treatment for Small Carriers. Other commenters suggest that "small" carriers should either be exempt from contribution<sup>2564</sup> or should be allowed to make discounted contributions.<sup>2565</sup> A few commenters state that "small" carriers should be allowed to make small flat minimal payments in lieu of their regular contributions.<sup>2566</sup> PCIA suggests a graduated contribution scheme in which small carriers would contribute a smaller percentage of their revenues than large carriers.<sup>2567</sup> PCIA argues that this revenue-sensitive contribution system would be less discriminatory to small carriers for whom support contributions are more disruptive.<sup>2568</sup> Commenters suggested a variety of bases for exempting or discounting the contributions of small carriers, including the following: interstate net transmission revenues less than one percent of total interstate net transmission revenues;<sup>2569</sup> interstate telecommunications revenues of less than or equal to \$10 million;<sup>2570</sup> less than one percent of market share, with market share being determined by revenues net payments to other carriers,<sup>2571</sup> and less than .05 percent of presubscribed lines nationwide.<sup>2572</sup>

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<sup>2561</sup> UTC comments at 10-11. *See also* Rural Electric Coop. comments at 2.

<sup>2562</sup> Ameritech comments at 23. *See also* Western Alliance further comments at 17.

<sup>2563</sup> *See* Cincinnati Bell comments at 14; Fred Williamson comments at 19-20; AT&T further comments at 49.

<sup>2564</sup> *See* Florida PSC comments at 24; Teleport comments at 12-14.

<sup>2565</sup> *See, e.g.,* NECA comments at 18; PCIA comments at 8; Vitelco further comments at 16.

<sup>2566</sup> *See* Idaho PUC comments at 17; NECA comments at 18; NCTA further comments at 26; PacTel further comments at 60; RTC further comments at 35; Vitelco further comments at 16; .

<sup>2567</sup> PCIA comments at 8.

<sup>2568</sup> PCIA comments at 8.

<sup>2569</sup> *See* Teleport comments at 12-14. *But see* NYNEX reply comments at 14 (arguing that this would unfairly exempt competitive LECs from contribution).

<sup>2570</sup> *See* United Utilities comments at 5.

<sup>2571</sup> *See* MFS comments at 23.

### 3. Discussion

799. Although section 254(d) gives the Commission the authority to exempt from contribution carriers whose contributions would be *de minimis*, it does not provide specific guidance on what would constitute a *de minimis* contribution. To this end, we find the Joint Explanatory Statement instructive. The Joint Explanatory Statement states that the *de minimis* exemption applies only to those carriers for which the cost of collection exceeds the amount of contribution.<sup>2573</sup> Thus, we recommend that the Commission interpret the *de minimis* exemption in this manner. We find that the legislative history of section 254(d) indicates Congress's intent that this exemption be narrowly construed. We thus disagree with Teleport, which advocates basing the exemption on administrator and contributor costs, and recommend that the cost of collection encompass only the administrator's costs to bill and collect individual carrier contributions. We also reject suggestions that the *de minimis* exemption be based on factors other than the cost of collection. We find that Metricom, MobileMedia and UTC's suggestions are not as consistent with congressional intent as our recommendation, as evidenced by the Joint Explanatory Statement.

800. Although we agree that a *de minimis* exemption, as defined above, is appropriate, commenters did not submit enough data regarding the cost of collection for us to recommend a specific threshold amount. NECA, based on its experience with the TRS system, estimates that, if contributions are based on revenues, the cost to bill and collect individual carriers will be approximately \$20.00 per carrier per year.<sup>2574</sup> This figure, however, may not be an accurate estimate of the cost of collection for universal service support mechanisms for two reasons. First, the TRS system bases contributions on gross interstate telecommunications revenues and, as discussed below, we recommend that support mechanism contributions be based on gross interstate and intrastate telecommunications revenues net payments to other carriers. Second, NECA's figure does not include administrator start-up costs. Thus, we recommend that, once it determines the administrator's cost of collection, the Commission exempt carriers for which the contribution would be less than the cost of collection. We suggest that such carriers be exempt from contribution and reporting requirements. We also recommend that the Commission re-evaluate administrative costs periodically once the contribution mechanisms are implemented. We reject requiring flat minimum payments for carriers qualifying for the *de minimis* exemption, because it would be impractical to require a payment that would result in a net loss to the support mechanism.

801. We also disagree with commenters who suggest that "small" carriers should be

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<sup>2572</sup> See Bell Atlantic comments at 14; US-SBA comments at 10-11.

<sup>2573</sup> See Jt. Statement of Managers, S. Conf. Rept. No. 104-230, 104th Cong., 2nd Sess. 131 (1996).

<sup>2574</sup> NECA further comments at 43.

treated differently from "large" carriers. Congress expressed its intent to limit the *de minimis* exemption as discussed above, and there is no statutory requirement that the Commission must establish preferential programs for small carriers. Although we note that several commenters feel a graduated contribution system would be more equitable to "small" carriers, we find that a uniform contribution percentage, subject to the *de minimis* exemption, is fair and equitable to all carriers, because all carriers will be subject to the same requirements. Graduated contribution schemes would require the Commission to devise rigid small carrier definitions and would unnecessarily complicate the contribution system. In addition, small carrier preferences might encourage all carriers to underestimate their size in order to qualify for contribution discounts.

## E. Basis for Assessing Contributions

### 1. Background

802. "Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."<sup>2575</sup> In the NPRM, the Commission suggested three different methods by which to assess contributions: basing contributions on gross revenues; basing contributions on gross revenues net payments to other carriers; and basing contributions on per-line or per-minute charges. The Commission invited comment on the relative merits of these methods and the extent to which they do or do not satisfy the requirements of the 1996 Act. The Commission also sought comment on any other alternative methodologies for calculating a carrier's or service provider's contribution to universal service support. The Commission instructed commenters to address which method would be the most easily administered and competitively neutral in its effect upon contributing carriers and service providers. In addition, the Commission sought comment on how these methods could be adapted if the Commission were to require non-carrier providers of telecommunications services to make contributions to universal service support mechanisms.<sup>2576</sup>

### 2. Comments

803. Gross Net Payments to Other Carriers. Commenters advocate a variety of contribution methodologies, and the majority recommend some kind of revenues-based

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<sup>2575</sup> 47 U.S.C. § 254(d). See also 47 U.S.C. § 254(b)(4).

<sup>2576</sup> NPRM at paras. 122-126.

mechanism.<sup>2577</sup> PCIA warns that assessing a contribution equal to a fixed percentage of revenues may cause a greater disruption to the business plans of small, low profit margin carriers than to large carriers.<sup>2578</sup> Several commenters argue that contributions should be based on gross telecommunications revenues net payments to other carriers, because such a methodology avoids assessing two contributions on the same service, the so-called "double payment" problem, and would be easy to administer.<sup>2579</sup> Time Warner adds that the net revenues model would base contributions only on value-added services, i.e., new services that the contributing carrier itself provided or added to telecommunications systems.<sup>2580</sup> Other commenters also state that the net revenues model is competitively neutral in that it does not advantage vertically integrated companies relative to specialized companies or those that purchase wholesale services.<sup>2581</sup> Illinois CC also notes that the use of interstate revenues net of payments to other carriers would be consistent with the Commission's mechanism for collecting regulatory fees.<sup>2582</sup> U S West counters that, although the net revenues model eliminates the double payment problem, it is not competitively neutral, because it allows most carriers to make contributions based only on retail revenues, while LECs would base contributions on their total revenues.<sup>2583</sup> It argues that the net revenues model would not be easy to administer, because LECs should be allowed to subtract imputed access charges, a figure difficult to calculate.<sup>2584</sup> CPI replies that carriers should not deduct the value of imputed access charges, unless they add the value of imputed access to wholesale revenues, because they cannot deduct a cost that never existed.<sup>2585</sup> GTE states that the net revenues model is not competitively neutral, because some carriers, including incumbent LECs, are not

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<sup>2577</sup> See, e.g., Florida PSC comments at 25; MCI comments at 15-16; NECA comments at 17-18; New Jersey Advocate comments at 24; SWBT comments at 18-20; USTA comments at 24-25; West Virginia Consumer Advocate comments at 14; Wisconsin PSC comments at 19; LDDS reply comments at 12; Puerto Rico Tel. Co. reply comments at 7-9.

<sup>2578</sup> See PCIA comments at 8-9.

<sup>2579</sup> See, e.g., ALTS comments at 18; Ameritech comments at 23-24; CWA comments at 11; GCI comments at 15; Illinois CC comments at 9; MCI comments at 15-16; Maine PUC comments at 20; NCTA comments at 24; New York CPB comments at 10; New York DPS comments at 10; Oregon PUC comments at 8; Time Warner comments at 22-23; CPI reply comments at 12-13; Puerto Rico Tel. Co. reply comments at 7-9.

<sup>2580</sup> Time Warner comments at 22-23. See also Ad Hoc Telecom. Users comments at 21.

<sup>2581</sup> See Maine PUC comments at 22; Sprint comments at 17.

<sup>2582</sup> Illinois CC comments at 9.

<sup>2583</sup> U S West comments at 18-19.

<sup>2584</sup> U S West comments at 18-19.

<sup>2585</sup> CPI reply comments at 13-14.

free to adjust their rates in the same way as their competitors.<sup>2586</sup> New Jersey Advocate states that contributions should be based on the value of services, as measured by price and demand, not net prices.<sup>2587</sup>

804. Gross Revenues. A few commenters suggest that basing contributions on gross telecommunications revenues would be the most equitable and easily administered mechanism because the industry is already familiar with the TRS fund which is based on interstate gross revenues.<sup>2588</sup> GVNW argues that gross revenues would be an inappropriate model, because current jurisdictional separations and access charge rules would assign a significant portion of the universal service support contributions to the interstate billing and collection category, a category for which there would be no additional recovery.<sup>2589</sup> NCTA adds that gross revenues would disadvantage companies with substantially different net and gross revenues.<sup>2590</sup> NCTA claims that it would particularly disadvantage new LECs that would initially pay large fees to other telecommunications carriers. LDDS opposes gross revenues on the grounds that such an approach would double count certain revenues.<sup>2591</sup> For example, a reseller and a facilities-based provider offering services to the reseller would both contribute based on the same underlying service. SWBT argues that both gross and net revenues are inferior contribution methodologies that, because they base contributions on wholesale access, will result in higher access charges and will encourage carriers to avoid access.<sup>2592</sup>

805. Retail Revenues. Several carriers advocate assessing contributions based on retail telecommunications revenues.<sup>2593</sup> They define retail revenues as those revenues derived from the sale of final products or services to end-user consumers.<sup>2594</sup> Retail revenues would

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<sup>2586</sup> GTE reply comments at 12.

<sup>2587</sup> New Jersey Advocate comments at 25.

<sup>2588</sup> See, e.g., Alabama-Mississippi Tel. Ass'n comments at 6; Staurulakis comments at 17; TCA comments at 7; West Virginia Consumer Advocate comments at 14; Wisconsin PSC comments at 19.

<sup>2589</sup> GVNW comments at 15.

<sup>2590</sup> NCTA comments at 24.

<sup>2591</sup> LDDS reply comments at 17. See also ALTS comments at 18; Ameritech comments at 24.

<sup>2592</sup> SWBT comments at 19.

<sup>2593</sup> See, e.g., BellSouth comments at 15-16; Harris comments at 8; SWBT comments at 18-20; USTA comments at 24-25; U S West comments at 16-20; GTE reply comments at 11; LDDS reply comments at 16-18; Taconic Tel. reply comments at 6.

<sup>2594</sup> See SWBT comments at 18; USTA comments at 24.

exclude transactions involving services or sales provided as inputs for the provision of other telecommunications services.<sup>2595</sup> Such inputs would include access services sold to other carriers for the provision of toll services, services provided to other carriers for the provision of resale and equipment sales to other telecommunications service providers.<sup>2596</sup> Thus, an IXC would exclude any access charges paid to a LEC. LECs would include, for example, interstate toll revenues, revenues associated with special access provided directly to end users, Feature Group A services<sup>2597</sup> provided directly to end users and subscriber line charges assessed on non-universal service lines.<sup>2598</sup> Proponents of the retail revenues model claim that using retail revenues would avoid assessing double contributions on the revenues derived from the same services and would not encourage carriers to avoid wholesale services.<sup>2599</sup> They also state that contributions based on retail revenues would be explicit and easy to administer if such contributions appeared as a surcharge on end-user's bills.<sup>2600</sup> Harris notes that if private carriers are required to contribute to support mechanisms, their contributions would have to be assessed in some other manner.<sup>2601</sup> Illinois CC opposes basing contributions on retail revenues because this approach would relieve wholesalers from contributing to support mechanisms, which Illinois CC claims violates the 1996 Act's directive that all carriers must contribute.<sup>2602</sup> Similarly, Texas OPUC opposes funding support mechanisms through a customer surcharge because it would violate the 1996 Act's directive that telecommunications carriers, not consumers, must contribute to the fund.<sup>2603</sup> Finally, NCTA states that retail revenues would unfairly relieve incumbent LECs from contributing because most of their interstate revenues

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<sup>2595</sup> See SWBT comments at 18.

<sup>2596</sup> See USTA comments at 24-25.

<sup>2597</sup> Feature Group A is similar to a local exchange service, but is used for interstate access. In such circumstances, the end user dials a seven-digit number to reach the LEC's "dial tone office" serving an IXC, where the LEC switches the call to the IXC's POP via a dedicated line-side connection. Feature Group A represents approximately one percent of incumbent LEC transport revenues.

<sup>2598</sup> See BellSouth comments at 15-16.

<sup>2599</sup> See, e.g., SWBT comments at 18; USTA comments at 24-25; BellSouth reply comments at 13-14; GTE reply comments at 11-12; LDDS reply comments at 17-18; U S WEST reply comments at 21-22.

<sup>2600</sup> See, e.g., AT&T comments at 8-9; SWBT comments at 19-20; U S West comments at 16-20; GTE reply comments at 11; LDDS reply comments at 18; Lincoln reply comments at 7; NYNEX reply comments at 11-19; Siskiyou reply comments at 2-3; Sprint reply comments at 3-6.

<sup>2601</sup> Harris comments at 8.

<sup>2602</sup> Illinois CC comments at 10. See also TLD reply comments at 10-11.

<sup>2603</sup> Texas OPUC reply comments at 11. See also CPI reply comments at 14-15; GSA reply comments at 12; TLD reply comments at 10-11.

are derived from access charges.<sup>2604</sup>

806. Per-Line or Per-Minute. Frontier suggests basing contributions on net interstate minutes of use.<sup>2605</sup> Several commenters oppose contributions based on per-minute or per-line charges, because they would require equivalency ratios for those carriers not using per-line or per-minute billing methods.<sup>2606</sup> They state that such methodologies could favor certain types of providers over others and could distort carrier incentives. New Jersey BPU states that per-line or per-minute charges would penalize high-volume, low-price providers, and instead favors a hybrid approach using both revenues and the number of customers/lines served.<sup>2607</sup> A few commenters suggest that contributions be assessed through an increase in the SLC or other flat non-traffic sensitive charges on end users.<sup>2608</sup> They argue that this approach would be explicit and easy to administer. Pennsylvania PUC counters that raising the SLC, like an end-user surcharge, would violate the 1996 Act's mandate that carriers must support universal service.<sup>2609</sup> CWA suggests that carriers should receive credits towards their universal service contributions for any services that they provide to high cost areas, schools or libraries at reduced rates.<sup>2610</sup> Montana Indep. Telecom. states that the Commission should consider whether a carrier is a carrier of last resort when calculating contributions.<sup>2611</sup>

### 3. Discussion

807. We agree with Time Warner and recommend that contributions be based on a carrier's gross telecommunications revenues net of payments to other carriers. We favor this methodology for several reasons. First, basing contributions on gross revenues net of payments to other carriers eliminates the "double payment" problem discussed by commenters. Second, as Time Warner notes, basing contributions on gross revenues net of payments to

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<sup>2604</sup> NCTA reply comments at 25.

<sup>2605</sup> Frontier comments at 10.

<sup>2606</sup> See ALTS comments at 18; NCTA comments at 24; PCIA comments at 8-9; SWBT comments at 19; U S West comments at 19; GTE reply comments at 13.

<sup>2607</sup> New Jersey BPU comments at 5. See also TLD reply comments at 3-5.

<sup>2608</sup> See, e.g., LCI comments at 4-5; LDDS comments at 18; PCIA comments at 13; Reed, Smith comments at 9-10; AirTouch reply comments at 17.

<sup>2609</sup> Pennsylvania PUC reply comments at 21.

<sup>2610</sup> CWA comments at 11. See also Public Advocates reply comments at 11 (suggesting that carriers partially contribute through in-kind donation of technical assistance).

<sup>2611</sup> Montana Indep. Telecom. comments at 3.

other carriers more closely approximates a value-added contribution, because it bases contributions only on services that the carrier adds to the PSTN. Third, this approach would be administratively easy to implement, because, as the Illinois CC notes, the Commission already collects common carrier regulatory fees on this basis. Most common carriers are familiar with the regulatory fees process and have accounting systems already in place to calculate gross revenues and payments to other carriers. Industry and Commission familiarity with calculating contributions using this approach will make collecting contributions easier and will likely reduce the time necessary to implement the new support mechanisms. U S West argues that this methodology would be difficult to administer because LECs should be allowed to subtract imputed access charges. CPI argues that LECs should not be permitted to subtract imputed access from gross revenues because they do not add the value of imputed access to their gross telecommunications revenues. We agree with CPI that basing contributions on gross telecommunications revenues net of payments to other carriers is relatively easy to administer.

808. The Joint Board, acknowledging GTE's comments that some ILECs may not be free to adjust rates to account for the amount of their contributions to universal service support, recommends clarifying that, under the Commission's section 251 rules, ILECs are prohibited from incorporating universal service support into rates for unbundled network elements. We note, however, that carriers are permitted under section 254 to pass through to users of unbundled elements an equitable and nondiscriminatory portion of their universal service obligation.

809. Additionally, we find that basing contributions on gross revenues net of payments to other carriers is competitively neutral. U S West claims that basing contributions on gross revenues net of payments to other carriers disadvantages ILECs, because they generally make no payments to other carriers. Therefore, ILECs will base their contributions on gross telecommunications revenues, while other carriers will base contributions on gross revenues net of payments to other carriers. For non-ILEC carriers that subtract payments to other carriers, U S West claims that the netted figure equals revenues derived from non-carrier end users or retail revenues. U S West argues that, in order to be competitively neutral, ILECs should also be allowed to make contributions based on their retail revenues. We disagree with U S West. Non-LEC carriers will not make contributions based on their retail revenues. Non-LEC carriers will make contributions based on the value of the services that they add to the PSTN, measured in terms of gross telecommunications revenues net of payments to other carriers. LECs will also make contributions based on the value of the services that they add to the PSTN. If the value of ILEC-added services generally equates to their gross revenues, this is not inequitable or discriminatory, because all contributing carriers will base their contributions in the same manner. ILECs should not be afforded special or different treatment when calculating their contributions. Thus, we find that basing contributions on gross revenues net of payments to other carriers is competitively neutral and easy to administer.

810. We disagree with commenters, such as Wisconsin PSC and TCA, that state that basing contributions on gross telecommunications revenues is the most equitable contribution mechanism. While this method of collecting contributions may be easy to administer because carriers already base TRS contributions on gross telecommunications revenues, we agree with LDDS<sup>2612</sup> that basing contributions on gross revenues may create a "double payment" problem, in that certain services may be counted twice for contribution purposes.<sup>2613</sup>

811. We also disagree with commenters that support basing contributions on retail revenues. Although basing contributions on retail revenues eliminates the "double payment" problem, we agree with the Illinois CC that it would relieve wholesale carriers from directly contributing to support mechanisms. At the same time, the Commission would have difficulty tracking and verifying carrier retail revenues because it has not previously compiled data on that basis.

812. We disagree with commenters that advocate collecting contributions on non-revenues based measures, such as on a per-minute or per-line basis. We reaffirm the Commission's statement in the NPRM that such mechanisms would require the Commission to adopt and administer difficult "equivalency ratios" for calculating the contributions of carriers that do not offer services on a per-line or per-minute basis. In addition, these approaches may favor certain services or providers over others. Furthermore, we reject commenters' suggestions that support mechanisms be funded through the SLC or a retail end-user surcharge. We find that these mechanisms would violate the statutory requirement that carriers, not consumers, finance support mechanisms. We also find that the New Jersey Advocate's suggestion that contributions be based on service prices and demand would be administratively difficult to implement.

813. Finally, we agree with commenters that suggest that carriers should receive credits against their contributions for services provided to rural, insular or high cost areas, schools and libraries or health care providers at below cost. We recommend that the Commission clarify that contributions to support mechanisms may be made in cash or through the provision of "in-kind" services at "comparable"<sup>2614</sup> or "discounted"<sup>2615</sup> rates.

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<sup>2612</sup> LDDS reply comments at 17.

<sup>2613</sup> For example, under the gross revenues model, a reseller would include revenues derived from the provision of services to customer A. The facilities-based carrier that sells transmission capacity to the reseller would also include the revenues derived from reseller for the reseller's purchase of transmission capacity to serve customer A. Thus, the revenues derived from customer A's call would be counted twice, once against the reseller and once against the facilities-based carrier.

<sup>2614</sup> See 47 U.S.C. § 254(h)(1)(A).

## F. Revenues Base for Assessing Contributions

### 1. Background

814. Every telecommunications carrier that provides interstate telecommunications services must make "equitable and non-discriminatory" contributions to universal service support mechanisms.<sup>2615</sup> In the NPRM, the Commission asked whether the Joint Board should recommend basing federal universal service contributions from interstate carriers (and, possibly, from other interstate service providers) on both their interstate and intrastate revenues or on their interstate revenues only. If commenters proposed that contributions should be based on interstate revenues only, the Commission asked for proposals on how to determine the interstate revenues for the many and varied telecommunications carriers and telecommunications service providers that are not subject to our jurisdictional separations rules and, in some cases, may not have a clear basis for delineating interstate and intrastate services.<sup>2617</sup> In particular, the Commission asked for comment on the practicality of the approach used for the TRS fund.<sup>2618</sup>

### 2. Comments

815. Interstate Only. Several commenters indicate that, assuming revenues-based contributions, only interstate telecommunications revenues should be included for assessment purposes.<sup>2619</sup> Some commenters state that section 254(d) contemplates contributions from only interstate telecommunications providers and that there is no indication that Congress intended to change the current jurisdictional responsibilities between federal and state governments over

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<sup>2615</sup> See 47 U.S.C. § 254(h)(1)(B).

<sup>2616</sup> 47 U.S.C. § 254(d).

<sup>2617</sup> NPRM at paras. 125-126.

<sup>2618</sup> NPRM at para. 125. Each common carrier providing interstate telecommunications services must contribute to the TRS fund. 47 C.F.R. § 64.604(c)(iii)(A). The TRS worksheet instructs carriers to calculate, wherever possible, the percentage of total revenues that are interstate by using information from their books of accounts and other internal data reporting systems. Carriers that cannot calculate a percentage from their books or from internal data may elect to rely on special studies to determine interstate percentages.

<sup>2619</sup> See, e.g., 360 comments at 9; Associated Communications comments at 4-5; BellSouth comments at 15-16; California PUC comments at 21; Harris comments at 8; MCI comments at 15-16; New York CPB comments at 10; New York DPS comments at 10; SWBT comments at 19; TCA comments at 7; USTA comments at 24-25; Wisconsin PSC comments at 19; Taconic Tel. Corp. reply comments at 6.

inter- and intrastate revenues.<sup>2620</sup> Pennsylvania PUC and New York DPS argue that basing federal contributions on intrastate revenues would be unlawful, because they claim the 1996 Act does not give the Commission the authority to do so.<sup>2621</sup> New York DPS alleges that section 254(d), when read in conjunction with sections 2(b), 254(f) and 601(c), is limited to interstate revenues.<sup>2622</sup> Section 2(b) states that "... nothing in this Act shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service." Section 601(c) states that the 1996 Act "shall not be construed to modify, impair, or supersede Federal, State or local law unless expressly so provided." NYNEX adds that including intrastate revenues in federal support programs would adversely affect state support programs by assessing contributions on intrastate revenues twice, once for federal support and once for state support.<sup>2623</sup> NYNEX also mentions that including only interstate revenues for federal universal service purposes would not be burdensome, because all interstate carriers already separate their revenues for TRS purposes.<sup>2624</sup>

816. Inter- and Intrastate. Other commenters, however, state that contributions should be based on both inter- and intrastate telecommunications revenues. Proponents of including intrastate revenues claim that basing contributions on both revenue bases would eliminate the need for complex separations schemes that are not employed by some of the contributing carriers.<sup>2625</sup> NCTA notes that companies not subject to the Commission's Part 36 separations rules might be able to manipulate results if intrastate revenues were excluded.<sup>2626</sup> Sprint states that because intrastate services will be supported by universal service, intrastate funds should be included in the basis for calculating contributions.<sup>2627</sup> Sprint argues that failure to do this would favor ILECs. CSE Foundation asserts that if contributions were based only on interstate revenues, the demand for interstate services would decrease, and

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<sup>2620</sup> See California PUC comments at 21; NARUC comments at 18; New York DPS comments at 9; NYNEX reply comments at 12; Pennsylvania PUC reply comments at 22.

<sup>2621</sup> New York DPS reply comments at 2-3; Pennsylvania PUC reply comments at 22. See also California PUC comments at 21.

<sup>2622</sup> New York DPS reply comments at 2-3.

<sup>2623</sup> NYNEX reply comments at 12-13.

<sup>2624</sup> NYNEX reply comments at 13.

<sup>2625</sup> See, e.g., AT&T comments at 8-9; NCTA comments at 24; New Jersey Advocate comments at 25; West Virginia Consumer Advocate comments at 14; GTE reply comments at 11; LDDS reply comments at 16-18.

<sup>2626</sup> NCTA comments at 23-24. See also GTE reply comments at 11.

<sup>2627</sup> Sprint comments at 16-17 and Sprint reply comments at 5-6.

carriers would not invest in interstate services or would try to avoid those services.<sup>2628</sup> LDDS asserts that section 254(b)(4) grants the Commission broad powers to impose contributions on all providers of telecommunications services, not just interstate providers, so intrastate telecommunications revenues can be included for contribution assessment purposes.<sup>2629</sup>

### 3. Discussion

817. The Joint Board recommends that universal service support mechanisms for schools and libraries and rural health care providers be funded by assessing both the intrastate and interstate revenues of providers of interstate telecommunications services. The Joint Board makes no recommendation concerning the appropriate funding base for the modified high cost and low income assistance programs, but does request that the Commission seek additional information and parties' comment, particularly the states, regarding the assessment method for these programs. The recommendations on the universal service mechanism for high cost assistance are tentative at this time and will be supplemented with a report of the state Joint Board Members following combined federal/state staff workshops on the proxy models. The recommendations on the schools and libraries discount mechanism, in contrast, are more certain, especially with respect to the identification of costs. The existing high cost assistance program is currently funded from interstate revenues, and intrastate revenues support universal service both implicitly, through rate structure, and explicitly, through some states' universal service fund mechanisms. The Joint Board believes that the decision as to whether intrastate revenues should be used to support the high cost and low income assistance programs should be coordinated with the establishment of the scope and magnitude of the proxy-based fund, as well as with state universal service support mechanisms.

818. When the Commission established the existing high cost assistance fund in 1984, the Commission recognized that universal service was a mutual goal shared with the states. The federal program was constructed to build upon the programs already being undertaken by the states:

We also agree with the Joint Board's plan to direct assistance to high cost areas. This approach will promote universal service by enabling telephone companies and state regulators to establish local exchange service rates in high cost areas that do not greatly exceed nationwide average levels. The federal Universal Service Fund will ensure that telephone rates are within the means of the average subscriber in all areas of the country, thus providing a

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<sup>2628</sup> CSE Foundation comments at 17-18. *See also* AirTouch reply comments at 18; GTE reply comments at 11.

<sup>2629</sup> LDDS reply comments at 18.

foundation on which the states can build to develop programs tailored to their individual needs.<sup>2630</sup>

819. The 1996 Act reflects the continued partnership among the states and the FCC in preserving and advancing universal service. Together, sections 254(d) and 254(f) contemplate continued complementary state and federal programs for advancing universal service. The Joint Board finds that state universal service programs should continue to play an important role in ensuring universal service to all consumers. Section 254(f) states that:

[a] State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.<sup>2631</sup>

Section 254(f) was intended to preserve state authority over universal service matters within certain parameters. Indeed, the Joint Explanatory Statement states that "[s]tate authority with respect to universal service is specifically preserved under new section 254(f)."<sup>2632</sup>

820. While section 254(d) prescribes that every telecommunications carrier that provides interstate communications services shall contribute to the Commission's universal service support mechanisms on an equitable and nondiscriminatory basis to the specific, predictable and sufficient mechanism established by the Commission, the statute does not expressly identify the assessment base for the calculation of the contribution. We recognize that the universal service mechanism established in this proceeding to address the needs of rural, insular and high cost areas will be combined with the existing high cost assistance, DEM weighting, Linkup, Lifeline and Long Term Support funding mechanisms.

821. The appropriate revenue base for collecting support for the high cost and low income programs must be considered in tandem with the distribution of these funds. The

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<sup>2630</sup> In the Matter of Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Decision and Order, 96 F.C.C. 781, 795 (February 15, 1984).

<sup>2631</sup> 47 U.S.C. § 254(f).

<sup>2632</sup> Joint Explanatory Statement at 132.

current federal high cost and low income programs are supplemented by existing state programs. As we have discussed *supra*, the development and composition of a universal service support mechanism based on a proxy model has been deferred for decision at this time, pending the convening of staff workshop sessions. We have also deferred decision on the appropriate revenue benchmark to compute the level of federal universal service support. Similarly, the modifications to the Lifeline program have been tentatively identified and set forth in this Recommended Decision for further comment. We find that it would be premature at this time to conclude how the high cost assistance fund and low income assistance programs should be funded, i.e., confined to interstate revenues or a combination of interstate and intrastate revenues.

822. The Joint Board recommends that the Commission seek further information and parties' comments on the issue of whether both intrastate and interstate revenues of carriers that provide interstate telecommunications should be assessed to fund the Commission's high cost and low income support mechanisms. The role of complementary state and federal universal service mechanisms requires further reflection. An additional consideration is whether the states have the ability to assess the interstate revenues of providers of intrastate telecommunications services to fund state universal service programs and whether that assessment capability would affect the funding base for federal universal service programs.<sup>2633</sup> In addition, we recommend that the Commission seek additional information and parties' comment on whether the intrastate nature of the services supported by the high cost and low income assistance programs should have a bearing on the revenue base for assessing funds. We also recommend that commenting parties address the ability to separately identify intrastate and interstate revenues in the evolving telecommunications market where services typically associated with particular jurisdictions are likely to be packaged together. Finally, we ask that parties comment on whether carriers will have an incentive to shift revenues between jurisdictions to avoid universal service contributions.

823. The state members of the Joint Board will include a discussion of the appropriate funding mechanism for the new high cost fund and low income programs as part of the report(s) on each of those programs discussed *supra*. These reports by the state members will be filed prior to the Commission's decision in this proceeding on the high cost and low income funds.

## **G. Administrator of Universal Support Mechanisms**

### **1. Background**

824. In the NPRM, the Commission sought comment on the best approach to

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<sup>2633</sup> See, e.g., Vermont Stats., Title 30, Chapter 87, Section 7521(a); Goldberg v. Sweet, 109 S.Ct. 582 (1989).

administer universal service support mechanisms fairly, consistently, and efficiently. The Commission suggested that support mechanisms could be administered by a non-governmental entity and stated that any administrator would be required to operate in an efficient, fair and competitively-neutral manner. Furthermore, the Commission noted that the administrator would be required to process information and databases on a large scale, to calculate the proper amount of each carrier's contribution and to apply eligibility criteria consistently, in order to ensure that only carriers eligible for support are properly compensated by the support mechanisms. The Commission asked commenters to discuss these criteria and any others the Commission might use to assess qualifications of any candidates, how long an administrator should be appointed, and any other matters related to the selection and appointment of an administrator. The Commission also invited parties to suggest the most efficient and least costly methods to accomplish the administrative tasks associated with administration.<sup>2634</sup>

825. The Commission also sought comment on whether universal service support could be collected and distributed by state PUCs. Under this approach, individual state commissions or groups of state commissions would be responsible for administering the collection and distribution of funds, operating under plans approved by the Commission. The state PUCs might delegate the administration of funds to a governing board composed of representatives from the state commissions, the contributing carriers, and support recipients. This board could also function as a central clearinghouse to the extent collection and distribution issues extended beyond the boundaries of individual states. The Commission requested comment on this alternative approach and on what provisions should be incorporated in any plan that the Commission approves for administration under this option. The Commission also invited proposals for other means of administering support mechanisms.<sup>2635</sup> Pursuant to the 1996 Act's principle that support for universal service should be "predictable,"<sup>2636</sup> the Commission also sought comment estimating the cost of administration using either of the two approaches that we proposed. Commenters proposing an alternative method were asked to identify the costs of administration associated with their suggested method.<sup>2637</sup>

## 2. Comments

826. Third Party. A majority of commenters suggest that universal service support

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<sup>2634</sup> NPRM at paras. 128-129.

<sup>2635</sup> NPRM at para. 130.

<sup>2636</sup> 47 U.S.C. § 254(b)(5).

<sup>2637</sup> NPRM at para. 131.

should be administered by a non-governmental, neutral third party.<sup>2638</sup> Proponents state that a lack of affiliation with any telecommunications carriers and no direct interest in support mechanisms is essential for the administrator to function as a neutral arbitrator among all of the various service providers that must contribute to support mechanisms. Such an administrator must have large scale database capabilities and the ability to collect and distribute funds.<sup>2639</sup> Several of these commenters state that the third party administrator should be selected through competitive bidding in order to lower the costs of administration.<sup>2640</sup> Idaho PUC agrees that the administrator should be chosen through competitive bidding, but adds that NECA should be allowed to bid.<sup>2641</sup>

827. NECA. Several LECs and a few others state that NECA should be appointed the administrator of the universal service fund.<sup>2642</sup> These commenters support NECA as the fund administrator because of NECA's proven experience in administering the current high cost assistance mechanism and the TRS system and its familiarity with the telecommunications industry.<sup>2643</sup> As an alternative to being appointed the permanent administrator, NECA suggests that it be appointed the interim administrator, because it would be able to implement the new support mechanisms quickly. NECA notes that it was appointed the two-year interim administrator of the TRS fund, before being reappointed for an

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<sup>2638</sup> See, e.g., ALTS comments at 19; AT&T comments at 22; AirTouch comments at 11; Ameritech comments at 24; Cincinnati Bell comments at 15; Frontier comments at 10; Illinois CC comments at 10-11; LDDS comments at 19-20; Maine PUC comments at 20-21; Missouri PSC comments at 21-22; NCTA comments at 25; Sprint comments at 23-24; CPI reply comments at 16; MFS reply comments at 9.

<sup>2639</sup> See Illinois CC comments at 10-11; NCTA comments at 25.

<sup>2640</sup> See, e.g., ACTA comments at 13; ALTS comments at 19; Ameritech comments at 24; Frontier comments at 10; Idaho PUC comments at 17-18; Maine PUC comments at 22-23; Teleport comments at 18; CPI reply comments at 16.

<sup>2641</sup> Idaho PUC comments at 17-18. See also Maine PUC comments at 21; California PUC reply comments at 9.

<sup>2642</sup> See, e.g., Associated Communications comments at 5; Farmers Tel. comments at 5; Frederick & Warinner comments at 4; Mon-Cre comments at 5; NECA comments at 23; New Hope Tel. comments at 5; OTIA-WITA comments at 16; Rock Port Tel. comments at 1; SWBT comments at 20; TCA comments at 7; Cathey, Hutton reply comments at 8-9; Vitelco reply comments at 11-12.

<sup>2643</sup> See, e.g., Associated Communications comments at 5; Farmers Tel. comments at 5; Frederick & Warinner comments at 4; Mon-Cre comments at 5; NECA comments at 23; New Hope Tel. comments at 5; OTIA-WITA comments at 16; Rock Port Tel. comments at 1; TCA comments at 7; Cathey, Hutton reply comments at 8-9; Vitelco reply comments at 11-12.

additional four-year term.<sup>2644</sup> Opponents of appointing NECA as administrator question whether an organization composed of small LECs can administer a program involving all telecommunications carriers in a neutral manner.<sup>2645</sup> NECA notes that its Board of Directors does contain non-LEC representatives and that it administers the TRS fund to which all telecommunications carriers, not just LECs, contribute.<sup>2646</sup> As administrator of the TRS fund, NECA receives guidance from an advisory committee drawn from the telecommunications industry, members of the hearing-impaired community and consumer advocates regarding the TRS fund, and NECA suggests that a similar committee could be created for the new universal service fund.<sup>2647</sup> NECA adds that the Commission has the authority to modify its Part 69 rules governing NECA's governance if it believes changes are necessary.<sup>2648</sup> Sprint states that if NECA is chosen as the fund's administrator, its Board of Directors must be broadened to include more non-LECs.<sup>2649</sup> Idaho PUC suggests that an advisory board be created to advise the administrator regardless of which entity is chosen.<sup>2650</sup>

828. State PUCs. A few commenters recommend that the fund should be administered by state commissions, because they are more familiar with local market conditions and industry.<sup>2651</sup> Others, however, question whether state commissions would have the resources to administer federal and state support programs and whether their administration would be uniform across states.<sup>2652</sup> Pennsylvania PUC suggests that states be given the choice of administering the program themselves or of appointing a third-party

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<sup>2644</sup> Letter from Katherine Falk, NECA, to Diane Law, Attorney, FCC, September 25, 1996 (NECA September 25 *Ex Parte*).

<sup>2645</sup> See LDDS reply comments at 19-20; MCI reply comments at 16-17; MFS reply comments at 8; WinStar reply comments at 6; Letter from Mary L. Brown, MCI, to Reed Hundt, Chairman, FCC, October 25, 1996.

<sup>2646</sup> NECA comments at 23.

<sup>2647</sup> NECA comments at 23.

<sup>2648</sup> NECA September 25 *Ex Parte*. See also Letter from Bruce W. Baldwin, NECA to Reed Hundt, Chairman, FCC, October 18, 1996 (NECA October 18 *Ex Parte*) (suggesting that the Commission amend section 69.602 of the Commission's rules to add six more directors, representing non-LEC carriers, to NECA's board).

<sup>2649</sup> Sprint comments at 23-24. See also Telec Consulting comments at 18-19 (arguing NECA should broaden its membership); TCA reply comments at 4.

<sup>2650</sup> Idaho PUC reply comments at 12.

<sup>2651</sup> See, e.g., Colorado PUC comments at 7; Time Warner comments at 23-25; New York DPS reply comments at 3.

<sup>2652</sup> See ALTS comments at 19; Associated Communications comments at 5; Teleport comments at 17; MFS reply comments at 8-9.

administrator, such as NECA.<sup>2653</sup> Netscape suggests that the Commission should establish macro-level policies and allow industry forums to handle the detailed administration of those goals.<sup>2654</sup>

### 3. Discussion

829. Based on the record in this proceeding, we recommend that the Commission appoint a universal service advisory board to designate a neutral, third-party administrator. Administration by a central administrator, as opposed to individual state PUCs, would be more efficient and would ensure uniform decisions and rules.

830. Although we do not recommend direct administration by state PUCs, we recommend creating a universal service advisory board, pursuant to the Federal Advisory Committees Act,<sup>2655</sup> including state and Commission representatives, to select, oversee, and provide guidance to the chosen administrator. To expedite the formation of the advisory board and its selection of a permanent administrator, we encourage the Commission to limit the number of advisory board members as much as possible. To ensure that administrative costs are kept to a minimum, we recommend that the universal service advisory board select an administrator through a competitive bidding process. The chosen administrator, including its Board of Directors, must: (1) be neutral and impartial; (2) not advocate specific positions to the Commission in non-administration-related proceedings; (3) not be aligned or associated with any particular industry segment; and (3) not have a direct financial interest in the support mechanisms established by the Commission. As several commenters note, any candidate must also have the ability to process large amounts of data and to bill large numbers of carriers. We recommend that the advisory board fund the administrator's costs through the support mechanism.

831. The Joint Board strongly advises the Commission to create a universal service advisory board as quickly as possible because it will be responsible for selecting an administrator. The board, in turn, should quickly select an administrator because implementation of the new universal service support mechanisms is of utmost importance to the nation. The Joint Board recommends that the universal service advisory board appoint a neutral, third-party administrator through competitive bidding no later than six months after the board is created. We also recommend that the Commission and the advisory board require the administrator to implement the new support mechanisms no later than six months after its appointment.

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<sup>2653</sup> Pennsylvania PUC reply comments at 22-23. *See also* Oregon PUC comments at 8.

<sup>2654</sup> Netscape comments at 12.

<sup>2655</sup> 5 U.S.C., App. § 4(a) and 3(2)(C).

832. NECA has successfully administered the existing high cost assistance fund and the TRS fund. We, however, disagree with those who propose that NECA automatically be appointed the permanent administrator. We conclude that many commenters question NECA's ability to appear as a neutral arbitrator among contributing carriers. We believe that NECA's current membership of incumbent local exchange carriers, its Board of Directors composed primarily of representatives of incumbent local exchange carriers, and its advocacy positions in several Commission proceedings may appear to non-LEC carriers as evidence of NECA's bias towards ILECs. Although we have no evidence of impropriety regarding NECA's management of the existing high cost assistance fund, the appearance of impartiality for the new administrator is essential, given the importance and magnitude of the universal service support programs that will ensure telecommunications access in all regions of the Nation. We, therefore, recommend against appointing NECA as the permanent administrator at this time. We recommend, however, that the Commission take such action as necessary that would allow NECA to render itself a neutral, third-party and would eliminate NECA's current appearance of bias toward incumbent LECs.<sup>2656</sup> If changes to its membership and governance render NECA a neutral, third-party, NECA should be eligible to compete in the advisory board's selection process. In addition, we reject Netscape's suggestion that industry forums should develop and administer universal service support mechanisms. Although cooperation with industry is essential to the successful implementation of universal service goals, conflicts of interest may arise through industry self-regulation. Furthermore, it may be difficult for industry members to reach a consensus on controversial issues.

833. We note that a transition period for low income consumers and rural, insular and high cost areas is necessary because we are changing eligibility requirements and how support is calculated, consistent with sections 254(c)-(e). These issues, however, do not apply to schools, libraries and health care providers because they do not participate in pre-existing programs. Consequently, consistent with section 254, we believe that support for schools, libraries and health care providers can be deployed sooner than support programs for low income consumers and rural, insular and high cost areas, because these programs are not presently defined. Thus, in the interest of providing telecommunications services to schools, libraries and health care providers as quickly as possible, we recommend that NECA be appointed the temporary administrator of support mechanisms for schools, libraries and health care providers. Prior to appointment as the temporary administrator, we recommend, however, that the Commission permit NECA to add significant, meaningful representation for non-incumbent LEC carrier interests to the NECA Board of Directors. NECA could begin collecting carrier contributions and processing requests for services soon after adoption of the Commission's rules and would continue to do so until the permanent administrator is ready to begin operations. We recommend that, in addition to operating the new support mechanisms for schools, libraries and health care providers, NECA would continue to administer the existing high cost and low income support mechanisms until the permanent administrator is

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<sup>2656</sup> See NECA October 18 *Ex Parte*.

prepared to implement the new high cost and low income support mechanisms.

#### XIV. CONCLUSION

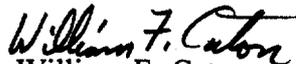
834. The 1996 Act instructs the Joint Board and the Commission to adopt a new set of universal service support mechanisms that are explicit and sufficient to preserve and advance universal service. We believe that the recommendations, discussed above, will achieve Congress's goals and will ensure quality telecommunications services at affordable rates to all consumers, in all regions of the Nation.

#### XV. RECOMMENDING CLAUSES

835. For the reasons discussed in this Recommended Decision, this Federal-State Joint Board, pursuant to section 254(a)(1) and section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 254(a)(1), 410(c), recommends that the Federal Communications Commission adopt the proposals, as described above, implementing new section 254 of the Telecommunications Act of 1934, as amended, 47 U.S.C. § 254.

836. The Joint Board further recommends that parties submitting any comments or additional information in this docket be required to serve each member of the Federal-State Joint Board and the Joint Board staff.<sup>2657</sup>

FEDERAL COMMUNICATIONS COMMISSION

  
William F. Caton  
Acting Secretary

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<sup>2657</sup> These submissions should be served in accordance with the service list attached as App. G.

**APPENDIX A  
PARTIES FILING INITIAL COMMENTS**

<u>Commenter</u>	<u>Abbreviation</u>
360° Communications Co.	360
AARP, CFA, Consumer Union	AARP
Access to Communications for Education Coalition	ACE
Ad Hoc Telecommunications Users Committee	Ad Hoc
AMSC Subsidiary Corp.	AMSC
AT&T Corp.	AT&T
Airtouch Communications, Inc.	AirTouch
Alabama Public Service Commission	Alabama
Alabama-Mississippi Telephone Assoc.	Alabama-Mississippi Tel. Ass'n )
Alaska Area Native Health Services	Alaska Health
Alaska Library Association	Alaska Library
Alaska Public Utilities Commission	Alaska PUC
Alaska Telephone Association	Alaska Tel.
Alliance for Distance Education in California	Alliance for Distance Education
Alliance for Public Technology	Alliance for Public Technology
Allied Associated Partners, LP/GELD Information Systems	AAP/GELD
America's Carriers Telecommunications Association	ACTA
American Association of Community Colleges	Community Colleges
American College of Nurse Practitioners	Nurse Practitioners
American Federation of Teachers	AFT
American Foundation for the Blind	
American Hospital Association	AHA
American Library Association	ALA
American Telemedicine Association	American Telemedicine
Ameritech	
Apple Computer, Inc.	Apple
Arctic Slope Tele Association (VCR TAPE)	Arctic
Ardmore Telephone Company	Ardmore Tel.
Arizona Health Sciences Center	Arizona Health
Associated Communications & Research Services, Inc.	Associated Communications
Association for Local Telecommunications Services	ALTS
Association of America's Public Television Stations	APTS
Association of the Bar of the City of New York	Bar of New York
Bell Atlantic	
BellSouth/National Economic Research Associates	BellSouth
Benjamin N. Cardozo School of Law/Yeshiva University	Cardozo
Benton Foundation	Benton

Bledsoe Telephone Co.	Bledsoe Tel.
Blountsville Telephone Company	Blountsville Tel.
Bonnie Price	Price
Brite Voice Systems, Inc.	Brite
California Department of Consumer Affairs	
California State Library	California Library
Cellular Telecommunications Industry Association	CTIA
Center for Civil Networking Inc.	Center for Civil Networking
Century Telephone & TDS Telecommunications	Century
Cheyenne River Sioux Telephone Authority & Golden West	Cheyenne River Sioux Tel.
Chief Counsel for Advocacy	SBA
of the US Small Business Administration	
Churchill County Telephone and Telegraph	Churchill County
Cincinnati Bell Telephone Co.	Cincinnati Bell
Citizens Utilities Company	Citizens Utilities
Citizens for a Sound Economy Foundation	CSE Foundation
Colorado Independent Telephone Association, Inc.	Colorado Indep. Tel.
Colorado Public Utility Commission Staff	Colorado PUC
Commercial Internet Exchange Association	Commercial Internet Exchange
Commonwealth of the Northern Mariana Islands	CNMI
Commonwealth of Massachusetts Board	MassLibrary
of Library Commissioners	
Communications Workers of America	CWA
Competitive Telecommunications Association	CompTel
Compuserve Inc.	CompuServe
Comsat Corporation	Comsat
Consumer Project on Technology	CPT
Continental Cablevision, Inc.	CCV
Council On Competitiveness	
Council of the Great City Schools	Great City Schools
Distance Delivery Consortium	DDC
Early Childhood Development Center Legislative Coalition	Early Childhood
Edgemont Neighborhood Coalition	Edgemont" )
Educom	
Evans Telephone Co.,	Evans Tel.
Humboldt Telephone Co.,	
Kerman Telephone Co.,	
Oregon-Idaho Utilities Inc.	
Pinnacles Telephone Co.	
The Ponderosa Telephone Co.	
The Siskiyou Telephone Co.,	
The Volcano Telephone Co.	

Farmers Telephone Cooperative	Farmers Tel.
Federation of American Research Networks	
Florida Cable Telecommunications Association	Florida Cable
Florida Public Service Commission	Florida PSC
Fort Mojave Telecommunications Inc.	Ft. Mojave Telecom.
Fred Williamson & Associates, Inc.	Fred Williamson
Frederick Warinner, LLC	Frederick & Warinner
Frontier Corp.	Frontier
Gary Tomlinson	Tomlinson
GTE	
GVNW, Inc./Management	GVNW
Georgia Public Service Commission	Georgia PSC
General Communications, Inc.	GCI
General Service Administration	GSA
Governor of Guam	
Guam Public Utility Commission	Guam PUC
Guam Telephone Authority	Guam Tel. Authority
Harris Shivan Association	Harris
High Plains Rural Health Network	
Hispanic Information & Telecommunications Network, Inc.	HITN
Hopper Telecommunications Company	Hopper
ICORE, Inc.	ICORE
Illinois State Board of Education,	Illinois Board of Education
Illinois State Library, Illinois Community	
College Board, Illinois Board of Higher Education	
ITCs, Inc.	ITC
Idaho Public Utilities Commission	Idaho PUC
Illinois Commerce Commission	Illinois CC
Independent Cable & Telecommunications Association	ICTA
Indiana Utility Regulatory Commission	Indiana URC
Information Industry Association	Information Industry Ass'n
Information Renaissance	Information Renaissance
Information Technology Association	ITAA
Information Technology Industry Council	
Instructional Telecommunications Council	
Interactive Service Association	Interactive Service Ass'n
International Communications Association	International Communications Ass'n
Iowa Communications Network	
Iowa Telephone Association	Iowa Tel. Ass'n
Iowa Utilities Board	Iowa Utilities Board
John Staurulakis, Inc.	John Staurulakis