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January 9, 1997

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JAN 10 1997

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

RE: Reply Comments in CC Docket 96-45, to Comments on Joint Board's Recommended Decision

Enclosed herewith please find the original and four copies of the reply comments of the Georgia Public Service Commission ("GPSC") in the above-referenced matter. The GPSC has sent one extra copy to the FCC's copy contractor, International Transcription Service, under separate cover. In addition, the GPSC has sent a copy on 3.5" diskette in Word Perfect 5.1 for Windows format separately to Sheryl Todd at the Common Carrier Bureau.

Also enclosed are two extra copies. Please file stamp these two extra copies to verify your receipt, and return them in the enclosed postage-prepaid, return addressed envelope.

Service copies have been sent to all the persons shown on the service list which accompanied the FCC's notice seeking public comments. Finally, copies have been sent to each party who filed comments to which the GPSC has responded in these reply comments.

Thank you for your consideration.

Respectfully submitted,

Terri M. Lyndall

Terri M. Lyndall
Executive Secretary

No. of Copies rec'd 0+5
List ABCDE

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

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

REPLY COMMENTS OF THE GEORGIA PUBLIC SERVICE COMMISSION TO COMMENTS REGARDING THE JOINT BOARD'S RECOMMENDED DECISION

January 10, 1997

Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, Georgia 30334-5701
(404) 656-4501

SUMMARY

The Georgia Public Service Commission ("GPSC") submits reply comments to the comments filed December 20, 1996, regarding the Recommended Decision of the Federal-State Joint Board on Universal Service ("Joint Board") released by the Federal Communications Commission ("Commission") on November 8, 1996. The Recommended Decision pertains to universal service funding issues pursuant to Section 254 of the Telecommunications Act of 1996 ("1996 Act").

The GPSC recommends that the Commission consider carefully a proposal by the New York Department of Public Service ("NYDPS") for an interim mechanism that would be limited in scope and allow the Commission additional time to develop a more thorough permanent mechanism. It calls for the Commission to quantify the support currently provided by the three universal service support sources identified by the Joint Board (USF, DEM, and LTS); this total obligation would be allocated among interstate providers in proportion to their interstate revenues. The funds could be disbursed to entities currently receiving support on a frozen per-line basis, as suggested by the Joint Board to accommodate the transition for rural carriers. As the NYDPS recognized, this simplified proposal would not immediately resolve all the issues. However, it could provide an acceptable interim mechanism to satisfy the Commission's statutory mandate before its May 1997 deadline, and provide additional time for the Commission to develop a more thorough permanent mechanism through a continuing Joint Board process, as Section 254(a)(2) of the Act provides.[1]

The GPSC supports many commentors who urged the Commission to heed the plain language of Section 254 and its legislative history, and not attempt to fund the federal program using intrastate revenues. The Commission should modify the Recommended Decision by removing intrastate revenues from the base for assessing contributions. The Commission would otherwise be acting outside the scope of its authority. The Commission should consider the practical consequences; implementation of an otherwise laudable program could be jeopardized by appeals and possible stay pending appeals. The Commission should at a minimum pause for further reflection, and allow the federal program to begin with funding limited to the interstate jurisdiction. Contributions based on revenues from interstate services should be sufficient for the appropriate goals of a federal program.

[1] NYDPS Comments at 12-13. [All references to Comments are to those filed December 20, 1996 in this proceeding, unless otherwise indicated.]

In general, the GPSC urges the Commission to refrain from creating an extensive federal USF, and to allow the States to pursue universal service objectives given States' jurisdiction, authority, and ability to tailor any universal service programs to meet specific local needs most cost-effectively. As many other States have done, Georgia already has taken action to establish its Universal Access Fund with contributions from a broad base of telecommunications service revenues. Georgia is representative of many other States implementing these local initiatives, each of which is in the best position to determine and address its own needs. If the Commission has any concerns regarding such State efforts, it should at most adopt reasonable minimal standards, but otherwise refrain from effectively displacing such local initiatives.

The GPSC agrees with commentors who objected to the recommendations to include internal connections (inside wire) within the scope of "services" eligible for discount, and to treat telecommunications services used to access on-line services (*e.g.*, the Internet) as including the enhanced services themselves. These are not telecommunications services and are outside the scope of universal service support mechanisms. This recommendation alone would expand federal universal service funding by approximately $1.25 *billion per year*. The GPSC asks the Commission not to balloon the size and scope of the federal fund in this manner. Examples provided by the Information Technology Division of Georgia's Department of Administrative Services ("DOAS-IT") show that sophisticated networking already enables schools, libraries and rural health care providers to obtain increasingly better telecommunications services at increasingly lower prices.[2] Assistance for schools, libraries, and health care providers is available through other, more appropriate methods than redefining telecommunications services or imposing what amounts to an additional tax in the absence of an express Congressional mandate.

The GPSC agrees with comments that the Recommended Decision (at para. 375) would overstep the Commission's authority by requiring State commissions to use the same discount schedule for schools' and libraries' intrastate services as used for interstate services. The GPSC also agrees with suggestions for a per-institution cap (which could be flexible as appropriate) for the funding for schools and libraries, and both a total annual cap and a per-institution for the support of services to health care providers.

[2] DOAS-IT Comments at 2-3.

The GPSC agrees that support for health care providers should be carefully targeted and provided only for a reasonable set of services that does not depart from the common, historical definitions of telecommunications services. Again, Georgia's DOAS-IT provides a good example of how local initiatives already are thriving in the increasingly competitive marketplace to provide rural health care providers with better services at lower costs.

The GPSC agrees with the commentors who recommended that the SLC cap not be increased at this time, and that the issue be deferred to the access reform rulemaking. The Commission already has issued its Notice of Proposed Rulemaking (adopted December 23, 1996, released December 24, 1996), which includes (at paras. 59-67) requests for comments due on January 27, 1997 regarding the CCLC and the SLC.[3]

The GPSC agrees with commentors who expressed concern that the Recommended Decision would substantially increase the overall cost of the Lifeline program by expanding its availability and level of assistance. In Georgia alone, just increasing the federal Lifeline baseline from $3.50 to the proposed $5.25 would increase Lifeline funding by approximately $1,660,000 per year before adding any new subscribers -- clearly an expensive "free ridership" problem. The GPSC also agrees with the commentors who pointed out that other factors like toll-blocked service are more significant in increasing subscribership. The GPSC urges the Commission to avoid a "disconnect" between the goal of increasing subscribership, and unexamined, inefficient programs.

The GPSC believes no change in Lifeline is needed. However, if the Commission feels compelled to make some change, SBC Communications, Inc. submitted an alternative proposal that is worth considering because it would be a more limited expansion with less of a free rider problem in States that already participate, it would maintain the benefit for qualifying lower income households in those relatively few States that do not currently offer a certified Lifeline program, and it would provide a greater incentive for States to supplement the federal benefit. This alternative would leave the federal baseline at the current $3.50 level and match dollar-for-dollar the full amount of any State contribution over $3.50 for a total federal benefit not to exceed $7.00.[4] Generally, the GPSC submits that any USF expansion should be narrowly targeted and evaluated for cost-effectiveness.

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[3] *In the Matter of Access Charge Reform*, CC Docket No. 96-262.

[4] SBC Comments at 7-8.

The GPSC agrees that the Recommended Decision incorrectly assumes that Congress intended a greatly expanded federal role in universal service. The Commission should not prematurely embrace the proposed "proxy cost minus revenue benchmark" mechanism because its specifics have not been developed, it has not been shown to satisfy the Commission's statutory obligations, and it may have far-reaching adverse consequencees.

The very presence of subsidies in the marketplace causes perverse results. Subsidies dilute marketplace price pressures, and burden technological innovation. Just as it is impossible to design a subsidy that will truly be technologically neutral, the dilution of marketplace price pressures also diminishes the pressures that otherwise spur innovation. This inevitably implicates competitive neutrality too. All appropriate governing principles are supported by keeping the USF small.

The current high cost, Lifeline, and Link-Up programs provide about $1 billion in explicit support.[5] The Joint Board did not explicitly quantify all the amounts by which its recommendations would enlarge universal service funding ("USF"). However, there are clear indications that the Recommended Decision would greatly inflate the subsidies. For example, expanding the current Lifeline to all States would annually add $119 million, and $100 million for then increasing the baseline funding for Lifeline (from $3.50 to $5.25).[6] Also, $2.25 billion would be added for schools and libraries (of which approximately $1.25 billion would pay for schools' and libraries' inside wire and Internet access). These figures do not include added costs for other items such as rural health care providers or general support for single-connection residence and businesses. At the same time, costs are declining and competitive market pressures are driving prices down. Making subsidies explicit should not be used as an opportunity to enlarge their size and scope. The GPSC urges the Commission to proceed much more cautiously than expanding federal programs that by their very nature counter cost-driven competitive trends, contribute to regulatory overhead costs, burden consumers, and intervene in competitive markets.

Dated: January 10, 1997

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[5] USTA Comments at 4; *see also* USTA Comments, CC Docket No. 80-286, October 28, 1994. The USTA also estimates that toll, access, vertical, and business services contribute another $20 billion annually in implicit subsidies. *Id.*

[6] SBC Comments at 7, incorporating data from the FCC's Monitoring Report, CC Docket No. 87-339, May 1996, Tables 2.3 and 4.19.

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I. INTRODUCTION AND OVERVIEW

The Georgia Public Service Commission ("GPSC")[7] submits these reply comments to many of the the comments filed on December 20, 1996, regarding the Recommended Decision of the Federal-State Joint Board on Universal Service ("Joint Board") released by the Federal Communications Commission ("Commission" or "FCC") on November 8, 1996. The Recommended Decision pertains to universal service funding issues pursuant to Section 254 of the Telecommunications Act of 1996 ("1996 Act"). Through Public Notice[8] released November 18, 1996, the Commission sought comments by December 20, 1996 and reply comments by January 10, 1997 concerning the Joint Board's Recommended Decision. The GPSC agrees that the Joint Board should be commended for its substantial effort in developing the recommendations. However, through these reply comments, the GPSC urges the Commission to consider and to adopt certain significant modifications to the Recommended Decision.

These reply comments use as an outline the Recommended Decision's structure for organizing the issues. Within that structure, the GPSC specifically addresses comments submitted by AT&T Corp. ("AT&T"), Bell Atlantic Nynex Mobile ("BANM"), the Florida Public Service Commission ("FPSC"), the Information Technology Division of Georgia's Department of Administrative Services ("DOAS-IT"), the Kansas Corporation Commission ("KCC"), the National Association of State Utility Consumer Advocates ("NASUCA"), the New York Department of Public Service ("NYDPS"), the Public Utility Commission of Texas ("Texas PUC"), SBC Communications, Inc. ("SBC"), the U.S. Small Business Administration ("SBA"), the United States Telephone Association ("USTA"), and the Utah Public Service Commission ("UPSC").

Generally, the GPSC submits these reply comments consistent with its overall views that:

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[7] The Georgia Public Service Commission is a "State commission" as that term is defined in Section 3(41) of the Communications Act of 1934, 47 U.S.C. § 153(41), and is the State agency vested with jurisdiction to regulate telephone corporations in the State of Georgia. The GPSC has specific authority to petition, intervene, or otherwise commence proceedings before the appropriate federal agencies and courts having specific jurisdiction over the regulation of telecommunications seeking to enhance the competitive market for telecommunications services within the State. Official Code of Georgia Annotated ("O.C.G.A.") § 46-5-168(f).

[8] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Public Notice, DA 96-1891 (November 18, 1996).

1. The fund should be as small as possible to accomplish its statutory objectives.
2. The fund should be reserved for those subscribers who cannot at "urban rates" or "affordable rates" generate enough revenue to support the cost of providing the service being rendered.
3. The fund should not favor one provider over another (competitive neutrality).
4. The fund must be flowed through to the subscriber, *i.e.*, result in lower rates to the subscriber.
5. The fund should not favor one technology over another (technological neutrality).

The GPSC submits that a competitively neutral Universal Service Fund ("USF") is one which accomplishes its objectives with a minimum of revenue redistribution, focuses on those areas and subscribers which cannot support themselves with urban or affordable rates, does not favor the incumbent or any other provider of the services, and results in lower than market rates to the targeted subscribers.[9] As Commissioner Schoenfelder noted, an excessively large fund may be harmful to end users and could adversely affect numerous customers.[10]

AT&T commented regarding the size of the fund, among other things, stating that strict controls on the overall size of the universal service scheme are critical to its continued existence and vitality. As the Commission has elsewhere recognized, excessive subsidies would not only reduce demand for telecommunications services -- and thereby undermine sources of financial support -- but would also erode the public support that is essential to the system's continued existence.[11] The GPSC agrees that these are among the factors supporting a fund limited in its size.

As discussed at greater length later in these reply comments, the GPSC remains strongly committed to the principle of the jurisdictional separations provided in the 1996 Act. This commitment is based on principles of States' rights, and also on practical experience. As Commissioner Schoenfelder noted, if the FCC were to utilize intrastate revenues it could negatively impact well-intentioned State programs and the States' interest in developing "their own workable

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[9] The GPSC supports the findings of the Joint Board in paragraph 23 of the Recommended Decision.

[10] Commissioner Schoenfelder, Dissent in Part, at 7.

[11] AT&T Comments at 14-15.

and viable state programs."[12] The GPSC agrees that, clearly, the FCC has authority to base the support mechanism for a federal universal service program on interstate revenues. However, just as clearly, the authority to utilize intrastate telecommunications revenues as a base for contributions to state universal service programs lies solely with the individual state commissions.[13]

A large federal USF will place significant financial demands on telecommunications providers and their customers. It would be much more difficult for States to impose additional USF burdens on those same customers and same intrastate services in order to further the worthwhile goals identified by the States. It is therefore desirable from a policy standpoint that the federal fund be relatively smaller and generally play a supporting role for individual State programs.

In general, the GPSC urges the Commission to refrain from creating an extensive federal USF, and to allow the States to pursue universal service objectives given States' jurisdiction, authority, and ability to tailor any universal service programs to meet specific local needs most cost-effectively. Georgia, like many other States, already has taken action to establish an intrastate fund. Georgia is not alone in this regard; and it is a medium-size State with average population densities, demographics, etc. Georgia's Universal Access Fund receives contributions from a broad base of telecommunications service revenues and represents a very appropriate approach. Georgia is representative of many other States implementing such initiatives, each of which is in the best position to determine and address its own needs. If the Commission has any concerns regarding such State efforts, it should at most adopt reasonable minimal standards, but otherwise refrain from effectively displacing such local initiatives.

The GPSC recommends that the Commission consider carefully a proposal by the New York Department of Public Service ("NYDPS," Comments at 12-13) for an alternative, interim funding mechanism that would be limited in scope and allow the Commission additional time to develop a more thorough permanent mechanism. It calls for the Commission to quantify the support currently provided by the three universal service support sources identified by the Joint Board (USF, DEM, and LTS); this total obligation would be allocated among interstate providers in proportion to their

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[12] Commissioner Schoenfelder, Dissent in Part, at p. 6.

[13] *See* Separate Statement of Commissioner McClure, at p. 3; *see also* Commissioner Schoenfelder, Dissent in Part, at p. 6 (use of intrastate revenues is "certainly beyond the scope of [the FCC's] jurisdiction").

interstate revenues. The funds could be disbursed to entities currently receiving support on a frozen per-line basis, as suggested by the Joint Board to accommodate the transition for rural carriers.

The GPSC agrees with parties, including AT&T Corp., SBC Communications, Inc. and the United States Telephone Association, who objected to the recommendations to include internal connections (inside wire) within the scope of "services" eligible for discount, and to treat telecommunications services used to access on-line services (*e.g.*, the Internet) as including the enhanced services themselves. These are not telecommunications services, and thus are outside the scope of universal service support mechanisms. Funding to help schools and libraries invest in new technology is and can be made available through other, more appropriate methods than redefining telecommunications services and imposing what amounts to an additional tax in the absence of an express Congressional mandate. The GPSC also supports adding a per-institution spending cap.

The GPSC similarly submits that support for health care providers should be carefully targeted and provided only for a reasonable set of services that does not depart from the common, historical definitions of telecommunications services. The GPSC also supports a total annual cap and a per-institution cap for the support for health care providers.

Examples provided by the Information Technology Division of Georgia's Department of Administrative Services ("DOAS-IT"), which are among many that are already growing nationwide, demonstrate that traditional "command-and-control" subsidy programs such as USF are burdensome, slow, costly, and inefficient compared with local initiatives that survive and thrive in the increasingly competitive telecommunications market. DOAS-IT operates the Georgia Statewide Academic and Medical System ("GSAMS") network, using aggregated volumes to provide greatly discounted prices for a variety of increasingly sophisticated telecommunications services, including telemedicine, for schools, libraries, rural health care providers, and other users statewide in Georgia.[14] The very first inquiry the Commission should undertake is whether such State and local networks can provide lower costs and better deals for all concerned - taking into account aggregated volume discounts, lower administrative costs, simplicity and flexibility, among other factors - than the complex regime envisioned in the Recommended Decision.

[14] DOAS-IT Comments at 2-3.

The GPSC agrees with the commentors who recommended that the SLC cap not be increased at this time, and that the issue be deferred to the access reform rulemaking. The Commission already has issued its Notice of Proposed Rulemaking (adopted December 23, 1996, released December 24, 1996), which includes (at paras. 59-67) requests for comments due on January 27, 1997 regarding the CCLC and the SLC.[15]

The GPSC also agrees with commentors like the NYDPS and the USTA who expressed concern that the Recommended Decision would substantially increase the overall cost of the Lifeline program by expanding its availability and level of assistance. In Georgia alone, just increasing the federal Lifeline baseline from $3.50 to the proposed $5.25 would increase Lifeline funding by approximately $1,660,000 per year before adding any new subscribers -- clearly an expensive "free ridership" problem. These commentors, the Florida Public Service Commission, and others have correctly noted that other factors such as toll-blocked service are much more significant in increasing subscribership.

The GPSC also supports the NYDPS, the USTA, and others in urging the Commission to issue a complete and specific proposal for public comment prior to adopting the Joint Board's recommendations with respect to the high cost mechanism(s).

The GPSC agrees with the NYDPS that the Recommended Decision incorrectly assumes that Congress intended a greatly expanded federal role in universal service.

The current high cost, Lifeline, and Link-Up programs provide about $1 billion in explicit support.[16] The Joint Board did not explicitly quantify all the amounts by which its recommendations would enlarge universal service funding ("USF"). However, there are clear indications that adopting the Recommended Decision would greatly balloon the federal USF subsidies. For example, the Recommended Decision would annually add $119 million for expanding the current Lifeline subsidies to all States and $100 million for then increasing the baseline funding for Lifeline (from $3.50 to

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[15] *In the Matter of Access Charge Reform*, CC Docket No. 96-262.

[16] USTA Comments at 4; *see also* USTA Comments, CC Docket No. 80-286, October 28, 1994. The USTA also estimates that toll, access, vertical, and business services contribute another $20 billion annually in implicit subsidies. *Id.*

$5.25),[17] and $2.25 billion for schools and libraries (of which approximately $1.25 billion would pay for schools' and libraries' inside wire and Internet access). These figures do not include the added costs for other items such as rural health care providers. At the same time, costs are declining and competitive market pressures are driving prices closer toward cost. Changing the subsidies from being implicit to being explicit should not be used as an opportunity to enlarge the scope and size of the funding program. The GPSC urges the Commission to proceed much more cautiously than such a dramatic expansion in a federal program that by its very nature counters the cost-driven competitive trends, contributes to regulatory overhead costs, burdens all telecommunications consumers, and intervenes in competitive markets.

II. PRINCIPLES

The GPSC supports the Joint Board's recommendation that the Commission be guided by the principle of "competitive neutrality," in addition to those principles expressly listed in Section 254(b). In general, a universal service fund is necessarily antithetical to a competitive model because it is a direct intervention in the marketplace. Thus some subscribers are to be given access at "below market" rates which are comparable to those presumably set by a competitive market. Competitive neutrality requires that such marketplace intrusion be minimized.

The Public Notice sought comment on how the additional principle of competitive neutrality should be defined and applied within the context of universal service. The Texas PUC suggested that this principle, like the other guiding principles adopted in the statute, must permeate throughout the Commission's decisions; from issues regarding supported services to carrier eligibility and fund assessments.[18] The GPSC agrees with this comment.

SBC Communications, Inc. offered the following as a definition for "competitive neutrality": "Universal service support mechanisms and rules should be applied in a manner which neither advantages nor disadvantages one provider of telecommunications services over another, nor favors

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[17] SBC Comments at 7, incorporating data from the FCC's Monitoring Report, CC Docket No. 87-339, May 1996, Tables 2.3 and 4.19.

[18] Texas PUC Comments at 2.

or disfavors one technology over another."[19] This definition would not be inconsistent with the GPSC's principles, stated below:

1. The fund should be as small as possible to accomplish its statutory objectives.
2. The fund should be reserved for those subscribers who cannot at "urban rates" or "affordable rates" generate enough revenue to support the cost of providing the service being rendered.
3. The fund should not favor one provider over another (competitive neutrality).
4. The fund must be flowed through to the subscriber, *i.e.*, result in lower rates to the subscriber.
5. The fund should not favor one technology over another (technological neutrality).

These principles support the GPSC's discussion in many areas of these reply comments. One particular point should be made with respect to the first principle, and that is that the very presence of subsidies in the marketplace tends to cause perverse results. The Commission should consider that the presence of subsidies dilutes marketplace pressure that otherwise pushes prices down. When service providers, even in a competitive marketplace, can use subsidies to replace some of the prices they otherwise must obtain from the customer, prices can tend to float up or at least escape some of the downward pressure. In effect, prices will tend to reflect and thus partially negate the subsidies.

The presence of subsidies also burdens technological innovation. Just as it is impossible to design a subsidy that will truly be technologically neutral, the dilution of marketplace price pressures also diminishes the pressure that otherwise spurs innovation. This in turn is among that factors that implicate competitive neutrality. Thus the above principles interweave, and all of them are supported by the primary goal of keeping the USF small.

III. DEFINITION OF UNIVERSAL SERVICE: WHAT SERVICES TO SUPPORT

A. Other Services

The USTA joined commentors who had asked the Commission to add white page directory listing within the defined universal service package. The Joint Board concluded that white page listings do not come within the 1996 Act's definition of "telecommunication services," and

[19] SBC Comments at 6.

recommended that white page listings not receive universal service support. (Recommended Decision, para. 68.) The USTA reasoned that this service traditionally has been associated with the provision of local service, and that the public interest is served by making this information available to consumers.[20]

The GPSC disagrees with the USTA, and supports the Joint Board's recommendation on this point. While white page listings traditionally have been associated with telecommunications service, they do not fall within the definition of telecommunications service *per se*, and should not be subsidized by a universal service fund. The GPSC has long required each local exchange carrier ("LEC") to publish or have published a white page directory.[21] Providing white page directories is a condition of providing local exchange service in Georgia and needs no other support.

B. Extent of Universal Service Support

The United States Telephone Association opposed the Joint Board's recommendation (at para. 92) that universal service support be limited to single-connection primary residence and single-connection business. The USTA asserted that such a limitation would create administrative burdens. The Joint Board had indicated that secondary lines could be identified through billing information, but the USTA contended that billing information will not always provide this data.[22]

The Office of Advocacy of the U.S. Small Business Administration also opposed this recommendation. The SBA argued that support for single-line businesses should not be reduced, and that multi-line businesses should not be excluded, in rural areas. The SBA stated that the recommended "exclusion" of these classes of rural small business from universal service support would be contrary to the 1996 Act, would violate the Act's requirements that rural and urban rates be "reasonably comparable," and that telecommunications services be "affordable," and would discourage rural subscribers' access to advanced telecommunications services.[23]

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[20] USTA Comments at 31.

[21] GPSC Rule 515-12-1-.10.

[22] USTA Comments at 30.

[23] SBA Comments at 2, 3-22.

The GPSC disagrees with these comments and supports the Joint Board's recommendation. The GPSC notes that the Texas PUC supported the Joint Board's recommendation to reduce the level of support for single-line businesses.[24] It is better for each State to implement economic development policies relating to single-line and multi-line businesses in both urban and rural areas. In Georgia, for example, some of the economic zones being targeted for development assistance are in urban areas. In addition, the SBA's comments did not discuss or account for other economic factors in rural areas such as lower land costs, lower rents, possibly lower insurance costs, and lower wages. The States also are in a better position to address other special factors in rural areas such as vacation homes and resort communities. The SBA's comments include an interesting quote from Senator Thomas Daschle during debate on passage of the Conference Committee report:

> And all across main street South Dakota, small businesses are reducing their overhead via networking services, reducing their paper work through electronic mail and saving thousands of dollars a year in travel expenses through their use of teleconferencing . . . .[25]

It is precisely such expense reductions that enables more businesses to put some of their savings into more telecommunications usage, in turn yielding greater savings and productivity gains. These direct financial benefits should continue to lessen the reliance of businesses on universal service subsidies.

The GPSC does suggest, however, that the Commission clarify the scope of its decision as to single-line, versus single-connection businesses. The Recommended Decision uses the terms interchangeably, although the GPSC interprets the Joint Board's ultimate recommendation to be as follows: (1) Limit support for designated services provided to residential customers to those services carried on a single connection to a subscriber's principal residence (para. 89). (2) Limit support for designated services provided to business customers to those services carried on a single connection to businesses in rural, insular and other high cost areas; and provide such support at a lower level than that provided for residential connections in the same area (paras. 91-92). The GPSC supports the recommendation as just stated. Specifying single-connection businesses is more limited than identifying single-line businesses, because some businesses have several "single-line" connections.

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[24] Texas PUC Comments at 3-4.

[25] 142 Congressional Record at S709 (1996).

The GPSC's support for this Joint Board recommendation is tempered by the principle, which the GPSC asks the Commission to recognize and adopt, that USF support should not be structured to provide incentives for businesses to make fundamentally uneconomic choices, such as adding extra single lines instead of purchasing an unsubsidized multiple-line connection. Application of this principle is all the more important if the Commission chooses to extend USF support to the broader category of "single-line" rather than "single-connection" businesses.

IV. AFFORDABILITY

The Texas PUC commented that, although the Joint Board concluded that a determination of affordability must consider both rates and other factors,[26] the Recommended Decision stated that local rates are generally affordable (paras. 133, 769), and clearly rejected the use of an affordability determination in arriving at a benchmark for use in developing the federal high cost funding program (paras. 309-317). The Joint Board also recommended that States exercise primary responsibility for determining the affordability of rates (para. 131). While affordability is mentioned further on issues involving low-income support and support for educational and other discount plans, the Texas PUC stated that the Recommended Decision's allusions to the States' "primary responsibility" in determining affordability may have little meaning in actual practice. The Texas PUC urged the FCC to clarify the role of the States, particularly if the FCC intends to consider permitting regional variations of the nationwide benchmark to address specific affordability issues. At a minimum, stated the Texas PUC, the Commission should not preclude a State's use of affordability factors in establishing its own parallel intrastate universal service support mechanism.[27] The GPSC agrees.

V. HIGH COST SUPPORT

A. General Comments

The New York Department of Public Service ("NYDPS") urged the Commission to issue a complete and specific proposal for public comment prior to adopting the Joint Board's

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[26] The Recommended Decision specifically mentions local calling area size, income levels, cost of living, population density, and other socioeconomic indicators as factors that may affect affordability.

[27] Texas PUC Comments at 4-5.

recommendations with respect to the high cost mechanism(s). The GPSC supports this concern. As the NYDPS noted, the Recommended Decision does not specifically discuss and define what portion of cost recovery will be deemed universal service support, what the federal role should be in ensuring that support, what level of support would be "sufficient," or what specific mechanism(s) should be employed, particularly with respect to rural, insular, and high cost support.[28] Consequently, parties cannot address whether, for example, the broadly described "proxy cost minus benchmark revenues" high cost funding mechanism constitutes sound policy and meets the statutory requirements.

The United States Telephone Association ("USTA") also commented that the Recommended Decision did not address the size of the fund necessary to provide high cost universal service support at levels which are explicit, specific, predictable, and sufficient.[29]

The Texas PUC expressed concern about the Joint Board's recommendation on the inclusion of discretionary and access service revenues in the computation of the nationwide benchmark for the determination of high cost support, for at least four reasons: (1) Texas' experience thus far with the proxy models leaves the PUC less than confident that the costs of non-basic local and access services are included in the cost models, and the PUC believes the services reflected in the costs must match as closely as possible the services producing the revenues. There continues to be an apparent, troublesome mismatch between revenues and proxy costs. (2) The inclusion of the discretionary and access service revenues would appear to provide incentives that may perpetuate the implicit subsidy that the 1996 Act clearly intended to remove. By increasing the benchmark through recognition of these revenues, the amount of support per line is decreased. To maintain its current revenue stream, however, a local exchange carrier will have a strong incentive (absent the presence of an effective competitor or regulatory intervention) to retain rates for discretionary and access services at their current level, well above incremental costs. (3) The third concern over the use of discretionary and access service revenues and costs in the establishment of the amount of support is the appearance -- correct or not -- that these services would become new services to be supported by the high-cost funding program. This is clearly not the intent of the Joint Board and should not be the intent of the Commission, and such an appearance should be avoided. (4) The FCC is planning an extensive

[28] NYDPS Comments at 8-10.

[29] USTA Comments at 8, 9-10.

review of access charges in conjunction with its review of universal service, and it is not clear to the Texas PUC what will happen if access rates are significantly changed through that process. If the FCC reduces access charges, will the nationwide benchmark be based on current revenue streams or projected revenues? The answer to this question will likely have a significant impact on the size of the overall fund as well as payments to individual carriers.[30]

The GPSC agrees that the proposals for such mechanisms must reflect sufficient specificity and predictability (*see* Section 254(b)(5) in order to enable specific comments.

The Recommended Decision suggested that the Joint Board staff further refine the Board's proposals and that the State members of the Board may communicate their views to the Commission (para. 269). However, the GPSC agrees that this process would be inadequate. Further efforts to specify the support mechanism(s) will likely implicate all existing rate structures, as well as shareholder interests.[31] Both ratepayers and shareholders, as well as the State commissions which have traditionally balanced these interests, should have a meaningful opportunity to address specific mechanisms that implement how and by whom universal service will be subsidized -- but the absence of a specific cost recovery proposal precludes such meaningful comment.

The USTA recommended that the universal service support mechanism replace current explicit and implicit mechanisms. The explicit mechanisms are the current universal service fund ("USF") and long-term support ("LTS"). The implicit subsidies are those in interstate prices, including carrier common line ("CCL") charges, weighted Dial Equipment Minutes ("DEM"), and averaged end user subscriber line ("EUCL") charges. The USTA added that the current subsidies include those implicit in intrastate prices including vertical service prices, business line prices, intraLATA toll prices, and switched access prices.[32] The USTA recommended that explicit and

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[30] Texas PUC Comments at 6-8.

[31] For example, the Recommended Decision leaves unresolved how, or even whether, carriers should be allowed to recover any universal service support obligations they may be assessed by any mechanism ultimately adopted. The Recommended Decision suggests there is a "statutory requirement that carriers, not consumers, finance support mechanisms" (para. 812).

[32] The GPSC believes that intrastate issues pertaining to universal service are better handled by the States. For example, the Georgia statutory Universal Access Fund pursuant to O.C.G.A. § 46-5-167 is an explicit State mechanism to provide support for universal service, including (but not limited to) replacement of

implicit subsidies be replaced with a combination of an explicit universal service fund, and price rebalancing which would itself help reduce the size of the fund in a competitively-neutral manner.[33] This recommendation appears to have merit, although it to demonstrates the need for fully-developed proposals (including cost and financial impacts) to which parties can meaningfully comment.

The New York Department of Public Service proposed an alternative, interim funding mechanism that would be limited in scope and allow the Commission additional time to develop a more thorough permanent mechanism.[34] It calls for the Commission to quantify the support currently provided by the three universal service support sources identified by the Joint Board (USF, DEM, and LTS); this total obligation would be allocated among interstate providers in proportion to their interstate revenues.[35] The funds could be disbursed to entities currently receiving support on a frozen per-line basis, as suggested by the Joint Board to accommodate the transition for rural carriers.

The GPSC recommends that the Commission carefully consider the NYDPS' proposal. As the NYDPS stated, this simplified proposal would not immediately resolve all issues surrounding high cost support in a competitive market. However, it could provide an acceptable interim mechanism to satisfy the Commission's statutory mandate before its May 1997 deadline, and provide additional time for the Commission to develop a more thorough permanent mechanism through a continuing Joint Board process, as Section 254(a)(2) of the Act provides.

B. Calculation of Cost

The United States Telephone Association balked at the Joint Board's recommendation of a proxy cost model, especially one based on forward-looking costs, to determine the costs of providing

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support previously provided through intrastate switched access charges. *See, e.g.*, O.C.G.A. § 46-5-166(f)(2).

[33] USTA Comments at 10.

[34] NYDPS Comments at 12-13.

[35] For entities that do not separate revenues jurisdictionally, a surrogate separation factor could be used to develop an interstate revenue estimate, based on the average percent of interstate revenues of entities that do separations.

universal service.[36] The USTA proposed instead the "actual cost" the incumbent LEC incurs to provide universal service. The USTA suggested that a proxy cost model could be developed that more closely reflects those "actual costs," indicating that its main complaint is the use of forward-looking costs.[37] The GPSC wishes to remind the Commission that the simple use of actual, embedded costs without any adjustments for productivity or efficiency could result in carriers receiving contributions for investments or operations that are not efficient.

The Joint Board itself stopped short of recommending any of the proxy models submitted in the proceeding thus far -- the BCM, the BCM2, the CPM, or the Hatfield model. The Recommended Decision states that "[w]hile the proxy models continue to evolve and improve, none of those submitted in this proceeding are sufficiently developed to allow us to recommend a specific model at this time. ... The Joint Board therefore recommends that the Commission continue to work with the State commissions to develop an adequate proxy model that can be used" (para. 268). The GPSC welcomes an opportunity to provide such input, and consistent with that approach, requests that any resulting proxy model recommendation be made publicly available for critique and comment before it is adopted.

C. Determining the Level of Support Using a Benchmark

As mentioned previously, the GPSC supports the NYDPS' recommendation that the Commission issue a complete and specific proposal for public comment prior to adopting the Joint Board's recommendations with respect to the high cost mechanism(s).[38] Because the Recommended Decision does not present specific proposals, parties cannot address whether, for example, the broadly described "proxy cost minus benchmark revenues" high cost funding mechanism constitutes sound policy and meets the statutory requirements.

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[36] The Joint Board actually recommended a bifurcated system in which the level of support for non-rural telecommunications carriers would be based on a proxy cost model. Support for "rural telephone companies" as defined in Section 153(37), however, would be based initially on embedded costs. Recommended Decision, paras. 7, 268-272.

[37] USTA Comments at 12-13.

[38] NYDPS Comments at 8-10.

The Recommended Decision represents little more than a discussion of some general approaches for methodology that could be used to create a benchmark. While the GPSC has concerns regarding the tentative recommendations that are presented, it is difficult to provide meaningful comments in the absence of specific proposals. The Act states that universal service mechanisms should be "specific, predictable and sufficient." Section 254(b)(5). The GPSC agrees that the proposals for such mechanisms must reflect sufficient specificity and predictability in order to enable specific comments -- and thus, ultimately, to enable the development of mechanisms that meet the Act's requirements.

The Recommended Decision suggests that the Joint Board staff further refine the Board's proposals and that the State members of the Board may communicate their views to the Commission (para. 269). The GPSC agrees with the NYDPS that this process would be inadequate; all interested parties must have an opportunity to react with their specific comments to a fully developed set of proposals.

The Recommended Decision would provide that eligible telecommunications providers for which the cost of providing supported services exceeds the revenue benchmark would receive universal service support (para. 309). Several methods for determining the benchmark are discussed, with a tentative recommendation for "nationwide average revenue per line" (para. 310). Further discussion of specific proposals is needed on such topics, for example, as how to prevent "rewarding" carriers that are able to charge existing relatively higher rates, and any implications for efficiency incentives. These can be debated in the abstract, but must be evaluated in their specifics.

Another example may be found in the Recommended Decision's expression (at para. 309) that any benchmark "should be set to minimize the probability that residential rates would increase while the new support mechanisms are being implemented." This is an appropriate, yet abstract objective; implementing it will require testing a specific proposal against a number of State-specific regulatory mechanisms and even legal requirements. For example, Georgia's Telecommunications and Competition Development Act of 1995 provides for "alternative regulation" including absolute price ceilings on residential and single-line business rates of electing local exchange carriers.[39] Just as this particular example supports the objective of any federal universal service fund being as small as

[39] O.C.G.A. §§ 46-5-165, 166.

possible (and limited to interstate service revenues), it also demonstrates why specific proposals need to be developed and tested in the arena of public comment.

Most troubling, as pointed out by the NYDPS,[40] is that although the details were not developed, the Recommended Decision clearly reflects the assumption that the federal role in universal service must be greatly expanded, and even potentially preemptive of the States' roles. The recommended "high cost" support mechanism (based on the difference between some proxy cost model (or embedded costs for smaller, rural carriers) and a "nationwide" revenue benchmark, paras. 7 & 183-356) may reveal itself to be larger in scope and in absolute dollar amounts than the existing mechanisms it is supposed to replace (USF, DEM weighting, and LTS).

The GPSC agrees that the Recommended Decision incorrectly assumes that Congress intended a greatly expanded federal role in universal service. The Commission should not prematurely embrace the proposed "proxy cost minus revenue benchmark" mechanism because its specifics have not been fleshed out, it has not been shown to satisfy the Commission's statutory obligations, and it may well have far-reaching effects neither intended by Congress, nor foreseeable by the Commission, the consumers, or other affected parties.

VI. SUPPORT FOR LOW-INCOME CONSUMERS

A. Reevaluation of Existing Low-Income Support Programs

The New York Department of Public Service supported the Joint Board's recommendations that: (1) contributions to Lifeline and LinkUp, and the eligibility of carriers to receive support for these programs, should be competitively neutral (paras. 423-424); and (2) the level of federal Lifeline contribution should be de-coupled from the federal Subscriber Line Charge ("SLC"),[41] to enable local carriers that do not charge SLCs to be eligible for federal Lifeline support (para. 423).[42]

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[40] NYDPS Comments at 11-12.

[41] Currently the $3.50 residential SLC is waived for Lifeline customers.

[42] NYDPS Comments at 13-14.

The New York Department of Public Service expressed concern that the Recommended Decision would substantially increase the overall cost of the Lifeline program by expanding its availability and level of assistance. (NYDPS Comments at 13-15.) The GPSC agrees with this concern. The Recommended Decision proposes to expand and to make more complicated the Lifeline program (paras. 417-425). There is no analysis of the financial aspects, but it is evident that the amount of subsidy would grow significantly. This is especially disconcerting since there is also no analysis comparing subscription levels in non-participating and participating States, and other factors, to determine whether this would actually be a cost-effective method of increasing subscribership.

The United States Telephone Association similarly urged the Commission not to adopt the recommended substantial changes, but instead to determine and consider the impacts. For example, the Recommended Decision did not discuss the impact of the new Lifeline rate, or of the inclusion of all States, on the size of the fund.[43] The GPSC agrees with this request. In Georgia, the Recommended Decision's proposal to increase the federal Lifeline baseline from $3.50 to $5.25 would increase Lifeline funding by approximately $1,660,000 per year[44] before adding any new subscribers -- clearly an expensive "free ridership" problem. Other problems that must first be evaluated include the elasticity of subscribership to changes in the subsidized rate, and the role of other factors such as disconnection for non-payment of toll charges.

AT&T Corp. also asked the Commission to reject for now the Joint Board's tentative suggestion (para. 419) that the federal baseline level of support be increased to $5.25, with the possibility of further federal matching funds up to $7.00. Such an increase in federal support could increase the annual cost of the Lifeline program to almost $1 billion.[45] AT&T stated that such

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[43] USTA Comments at 33.

[44] Currently, BellSouth has approximately 79,147 subscribers in Georgia who are receiving the $7.00 Lifeline discount, half of which is funded by the federal Lifeline program.

[45] AT&T based this figure on the Joint Board's recommendations (1) to extend Lifeline benefits to all eligible households (approximately 13 million based on an April 1996 U.S. Department of Commerce Report on Poverty) and (2) to double the amount of the per line subsidy from $3.50 to $7.00.

increases are unnecessary at this time in light of several other findings made by the Joint Board.[46] These include disconnection for failure to pay long-distance bills (Recommended Decision at para. 384), for which the Joint Board recommended other, appropriate solutions.[47] The GPSC agrees. As AT&T noted, simply increasing the levels of support, in contrast, bears no necessary connection to the problem.

The Florida Public Service Commission also submitted comments demonstrating that there is not a clear connection between the size of Lifeline discounts and increased subscribership, and noting that other factors appear to be more significant, including voluntary toll-blocking and reduction or elimination of deposits for Lifeline participants. The FPSC stopped short of endorsing mandatory participation by all States, and agreed that increasing the funding would not necessarily achieve the desired goal of increasing subscribership.[48]

The GPSC urges the Commission to avoid a "disconnect" between the ultimate universal service goal of increasing subscribership, and unexamined methods that may not lead to that goal, or may do so only in a highly inefficient manner. Many may debate whether ends justify means, but few would argue that any proposed means must first be examined to determine whether it is likely to achieve the desired end. As the NYDPS pointed out, it is unclear from the Recommended Decision how the Joint Board determined that expanding Lifeline assistance is necessary at this time to ensure universal service.[49] It contains no analysis comparing subscription levels in participating and non-participating States to determine if statistically significant differences exist in subscription levels.[50] Before automatically expanding the program and the subsidy amounts required to fund the expansion, other pertinent factors must be examined. These include such factors as the role of other assistance

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[46] AT&T Comments at 15-16.

[47] AT&T Comments at 15-16.

[48] FPSC Comments at 3-5.

[49] NYDPS Comments at 14-15

[50] In fact, as the NYDPS pointed out, subscription levels in non-participating States tend to be quite high (*e.g.*, Nebraska 97.1%, Iowa 96.4%, New Hampshire 96.2%, Delaware 96.2%). NYDPS Comments at 14-15 n.2, citing Industry Analysis Division, FCC, Monitoring Report May 1996, CC Docket No. 87-339, at table 1-2 (1996).