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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
Federal Communications Commission  
Washington, D.C. 20554

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

Reply Comments  
of  
America's Carriers Telecommunication Association ("ACTA")

These Reply Comments are submitted on behalf of America's Carriers Telecommunication Association ("ACTA"), a national trade association representing over 190 members comprised of competitive telecommunications service providers, their suppliers and support service entities.

As the record in this proceeding is already voluminous and the time to study and evaluate the multitude of complex and contentious issues inadequate, ACTA determined to forego the time and expense of filing initial comments. Instead, ACTA reviewed a substantial number of the initial comments filed by others and will limit these Reply Comments to a brief statement of support for, or opposition to, specific positions asserted in the initial comments.

One preliminary comment is required however. As the Commission itself has stated, this proceeding is part of a trilogy of proceedings by which the reshaping of the

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telecommunications industry is to be fashioned under the policies established by Congress in the Telecommunications Act of 1996. The first part of this trilogy has, however, been derailed by judicial action raising a significant barrier to the ability of the Commission to accomplish its stated goals of establishing an appropriately interrelated cohesive, coherent and cogent tri-partite policy program which matches the rules and regulations for competitive interconnection/local exchange services with a fair, workable and intelligent universal service subsidy program as part of a sound, cost-justified and equitable reform of access charges. The judicial barrier to the establishment of these goals has moreover been compounded by the Commission's open-ended approach to access charge reform which fails to articulate a clear vision of where the Commission is determined to go on such an important issue.

While in many ways unavoidable, this "messy" approach to redefining the telecommunications competitive/non-competitive environment makes one thing appear inevitable. The industry will continue to be buffeted by uncertainty, litigation and unclear direction. Small businesses suffer more acutely from such disarray and a premium should, therefore, be placed on maintaining Commission attentiveness to the temporary and balkanized nature of its decisions and the more onerous impact such type of decisions will have on small businesses.<sup>1</sup>

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<sup>1</sup> While statutorily-imposed time constraints permit little alternative, ACTA is gravely concerned about the segregation of interrelated issues in the access charge reform proceeding, the failure of the Commission in that proceeding to articulate any clear vision of regulatory goals, and the exogenous impact of the current judicial intervention on interconnection policies.

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Like the Illinois Commerce Commission ("ICC"), ACTA is unable to determine from the Joint Board's Recommended Decision the impact on carriers and their customers, but believes the concern over the proposals being overly-broad and excessively high in costs should be adopted by the Commission as a fundamental precept by which to judge the recommendations made. Specifically, ACTA also agrees with the ICC on the following points concerning the Recommended Decision:

- It contains more extensive subsidies than envisioned by Congress;
- It fails to identify overall estimated costs and the assumptions on which its cost estimates are based and, ACTA would add, provides no consideration of the disparate impact of those costs on small businesses;
- It fails to effectively cap most subsidy programs; and
- The Joint Board has misinterpreted the 1996 Act to require subsidies for internal connections in all classrooms.

Along with other commenters, ACTA opposes other specific concepts and/or proposals of the Recommended Decision:

- A general rule of including single-line businesses as eligible for universal service support is overly-broad and another method should be devised based on demonstrated need for such support for these businesses;<sup>2</sup>

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<sup>2</sup> See, e.g., Comments of the Association of Local Telecommunications Services ("ALTS");

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- Subsidies for CPE, ISW should not be permitted,<sup>3</sup> nor for Internet access;<sup>4</sup>
- Carriers should not be prohibited from receiving universal service support for providing Lifeline services from disconnecting such service for non-payment of toll charges<sup>5</sup> because it is not only bad policy, it is discriminatory and constitutionally suspect;
  - The baseline support in the amount of \$5.25 should not be adopted because of the lack of record support for the necessity or reasonableness of this figure;<sup>6</sup>
  - The SLC should not be decreased and the decreases in the LTS and pay phone expenses should not be split between the SLC and CCL charges;<sup>7</sup>
  - The CCL should be eliminated completely,<sup>8</sup> but the Commission should not replace it with the Recommended Decision's flat-rated PIC-based charge because such

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<sup>3</sup> See, e.g., Comments of AT&T Corp. ("AT&T"), MFS Communications Company, Inc. ("MFS"), Sprint Corporation ("Sprint"), the United States Telephone Association ("USTA") and WorldCom, Inc. ("WorldCom"); but see Comments of Winstar Communications, Inc. ("Winstar") supporting unencumbered access to inside wire by all competitors, a concept which ACTA submits should be adopted and made explicit. See, also, Comments of MFS.

<sup>4</sup> See Comments of AT&T and those of the GTE Service Corporation.

<sup>5</sup> See e.g., Comments of MCI Telecommunications Corporation ("MCI").

<sup>6</sup> See Comments of MCI and AT&T.

<sup>7</sup> See Comments of AT&T, USTA, WorldCom, and Comments of Bell Atlantic Telephone Companies ("Bell Atlantic").

<sup>8</sup> See, e.g., Comments of the Ad Hoc Telecommunications Users Committee ("Ad Hoc").

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a charge blatantly discriminates against IXCs and fails to impose costs on actual cost causers;<sup>9</sup>

Along with many other commenters, ACTA supports the following concepts found in the Recommended Decision:

- The use of the principle of "competitive neutrality" in applying support mechanisms and rules;<sup>10</sup> and ACTA would add and emphasize that any attempt to isolate non-facilities-based telecommunications providers from the unfettered right to receive universal service support in circumstances in which facilities-based carriers would be so entitled is not only in violation of this principle, but would be arbitrary and capricious;<sup>11</sup>
- The use of forward-looking economic costs as the proper measure of costs to calculate universal service support,<sup>12</sup> and the use of a proxy model refined through further consideration beginning with the Hatfield Model;<sup>13</sup>

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<sup>9</sup> See Comments of WorldCom.

<sup>10</sup> See, e.g., Comments on the Universal Service Recommended Decision of BellSouth Corporation ("BellSouth") and the comments of MCI, ALTS, Sprint and others.

<sup>11</sup> In accord, see e.g., the Comments of the Telecommunications Reseller Association and the comments of MFS and Winstar. See also the Comments of IXC Communications, Inc. ("IXC") urging the Commission to evaluate the Joint Board's recommendations impact on resellers. ACTA would only state IXC's observation more strongly, namely, that the Commission must be concerned about the continued viability of resale carriers and that no issue exists as to whether or not it is or should be so concerned.

<sup>12</sup> See, e.g., Further Comments of the Public Utility Commission of Texas ("Texas PUC").

<sup>13</sup> See, e.g., Comments of Ad Hoc, ALTS, MCI and MFS. Also, ACTA submits that the additional principles proposed for proxy models by MFS merits consideration, as does

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- Funding of all universal support programs should be based on both interstate and intrastate telecommunications revenues;<sup>14</sup> and
- A method should be adopted to chose a neutral, third party administrator of the universal service programs;<sup>15</sup>

ACTA also supports the positions advanced by certain commenters seeking to clarify or supplement the Recommended Decision:

- Raising the subscriber line charge to eventually eliminate the interstate CCL charge;<sup>16</sup> and
- Recovery of universal service costs should be permitted to be recovered by an explicit retail surcharge on end users using both interstate and intrastate revenues;<sup>17</sup>

Conversely, ACTA opposes certain positions advanced by commenters seeking to clarify or supplement the Recommended Decision to the benefit of their inherent self-interests without regard to the public interests:

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MFS' comment that the Joint Board's proposal to base high-cost support on average revenues per line should be rejected in favor of using the difference in a national benchmark of costs developed by use of a proxy model and a service areas individual proxy model costs. See, also, the Response of U S WEST, Inc. to Recommended Decision ("U S WEST").

<sup>14</sup> See, e.g., Comments of AT&T, ALTS, BellSouth, MCI, and USTA.

<sup>15</sup> See, e.g., Comments of AT&T, ALTS, MFS, Sprint and the Texas PUC.

<sup>16</sup> See, e.g., Comments of MFS, Sprint and US WEST.

<sup>17</sup> See, e.g., the Comments of the NYNEX Telephone Companies and the Comments of AT&T, BellSouth, MFS and WorldCom.

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○ The comments of Netscape Communications Company ("Netscape") seem particularly self-serving and grasping.<sup>18</sup> Not satisfied with the current free ride its industry segment receives due to outdated and wrongheaded policies on the existing public switched networks, Netscape seeks to expand that subsidy for the distribution and expansion of its commercial interests, yet remain unburdened from making any contribution to schools or libraries itself. Netscape wants the T-1 facility necessary to provide access to schools and libraries discounted, but blatantly shuns any notion that the retail price for the content delivered via that facility be discounted in anyway.

○ In its comments, Nextel Communications, Inc. seeks to avoid obligations to contribute to universal service mechanisms except in limited circumstances.<sup>19</sup>

○ In its comments, Juno Online Services, L.P. wants discounts applied to offset long distance charges associated with reaching a "dial-up" number for Internet access or e-mail.<sup>20</sup>

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<sup>18</sup> Netscape Comments at 6 and notes 19 and 20.

<sup>19</sup> Comments of Nextel Communications, Inc. at ii.

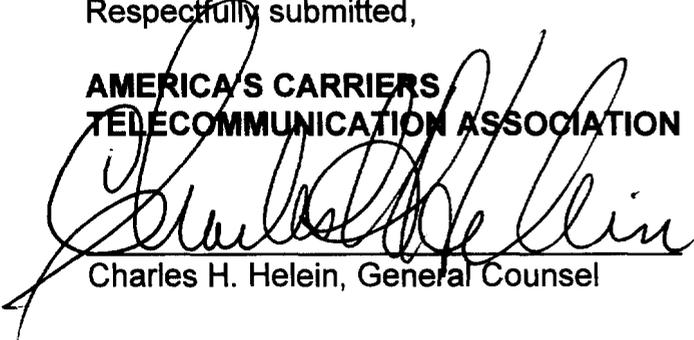
<sup>20</sup> Comments of Juno Online Services, L.P. at 2.

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ACTA submits that no entity participating in the telecommunications industry deserves any free rides; that the astoundingly unfair system by which certain segments of the industry have escaped fundamental obligations to support the means by which they have been able to build their own business enterprises be scrapped, and scrapped immediately. Not only does plain common sense and simple fairness require such a result, so to should the compelling necessity to avoid creating the image of governmental favoritism and to avoid future constitutional issues of equal protection, takings and due process.<sup>21</sup>

Respectfully submitted,

**AMERICA'S CARRIERS  
TELECOMMUNICATION ASSOCIATION**

  
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<sup>21</sup> See the studies attached to the Comments of Ameritech which provide a meaningful analysis in broader scope of the constitutional issues raised by today's telecom regulatory efforts. "A Framework for Managing Telecommunications Deregulation While Meeting Universal Service Goals" (Attachment 1) and "Ensuring the Viability and Integrity of Universal Service Policy with Competition" (Attachment A), by Cherry and Wildman (1996).