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January 27, 1997

Mr. William F. Caton
Acting Secretary
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1919 M Street NW., Room 222
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BY AIRBORNE EXPRESS

Re: CC Docket No. 96-45 - Federal-State Joint Board on Universal Service

Dear Mr. Caton:

Enclosed are the original and twelve copies of the Florida Public Service Commission's comments in the above docket. Please date-stamp one copy and return it in the enclosed self-addressed stamped envelope. We are also forwarding a hard copy, plus diskette, of our comments to Sheryl Todd of the Common Carrier Bureau.

Sincerely,

Cynthia B. Miller by jb

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Senior Attorney

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cc: International Transcription Service
Brad Ramsay

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JAN 28 1997
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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
	)	
	)	

EX PARTE COMMENTS OF THE

FLORIDA PUBLIC SERVICE COMMISSION

On November 7, 1996, the Federal-State Joint Board adopted a Recommended Decision on Universal Service, as required by Section 254 of the Telecommunications Act of 1996 (the Act). On November 18, 1996, the Federal Communications Commission (FCC) issued a request for Comment on that Recommendation. While many recommendations were made on universal service issues, certain areas remain open. The FCC has requested comment on certain of the unresolved matters.

The Florida Public Service Commission (FPSC) is pleased to provide comments on these issues of major importance. Our ex parte comments are limited to the topic of high cost and low-income support mechanisms.

The FCC asks whether assessments for high cost and low-income support mechanisms should be based on the intrastate and interstate revenues of carriers that provide interstate telecommunications services. Additionally, the FCC seeks comment as to whether contributing carriers' abilities to identify separately inter- and intrastate revenues in an evolving telecommunications market, and carriers' incentives to shift

revenues between jurisdictions to avoid contributions, have a bearing on this question.

Inter- and Intrastate Revenue Assessments

Some commenters believe that the application of an assessment to both inter- and intrastate revenues shifts jurisdictional responsibilities. There was opposition to such a shift. The FPSC disagrees that the use of intrastate revenues as part of the assessable revenue base constitutes a shift in jurisdiction. Such assessments could be analogized to a tax. From a practical standpoint, the mere application of such a charge to certain revenues does not shift jurisdictional responsibilities for other matters, such as establishment of rates. We note, for example, that the federal excise tax on communications is charged on both local and toll telephone services. In Florida, those same revenues are also subject to the gross receipts tax. The jurisdictional responsibility for rates and other intrastate matters is not impaired by the application of multiple taxes to the same revenues, nor does the assessment of a tax lend any other authority over a specific type of revenue. We believe the same would hold true for a universal service assessment.

In theory, we could support an assessment on both inter- and intrastate revenues. Such a method combines fairness with

simplicity, while not impairing the states' jurisdiction. We believe an assessment on certain revenue does not preclude making an additional assessment on the same revenue. Nevertheless, the impact on telecommunications providers in certain states due to this type of assessment may effectively preclude funding of state programs due to the sheer magnitude of the total proposed assessments. We note that the federal Telecommunications Act of 1996 expressly acknowledged the states' rights to establish their own universal service mechanisms. (Section 254(f)) We believe nothing should be done that would impair the states' ability to implement funds of their own, including state assessments on both inter- and intrastate revenues, if the states find it appropriate. Although we do not object to an assessment on both inter- and intrastate revenues, we have other concerns about the proposed methodology. We find disturbing the magnitude of the amounts that Florida telecommunications providers may be assessed overall, as outlined in the report titled "The Revenue Base for Federal Universal Service Support" (hereafter the Report).[1]

Overall Assessments

According to the figures supplied in the Report, all Florida carriers combined could contribute as much as $221,010,000 to the

[1]Prepared by the Staff Subcommittee on Communications of the National Association of Regulatory Utility Commissioners, with assistance from the Telecommunications Industries Analysis Project.

fund, net of receipts. The smallest net contribution by Florida under the Report's various proposals would be $47,960,000.

As a result of the proposed increases in the fund, many states may receive substantial increases in funding, often at the expense of populous states such as Florida. Florida has a high level of assessable revenue but enjoys somewhat lower costs per loop than some other states, largely due to differences in demographics. We would expect to be a net contributor under any new proposal. Nevertheless, we caution that contribution levels must be reasonable. The federal jurisdiction cannot resolve all of the issues of universal service on its own. It is clear to us that the Act intended a partnership with the states, in which both jurisdictions have an important role to play. In that spirit, we would propose two courses of action, which could be implemented jointly.

First, while it may be inevitable that large states will be net universal service contributors under a revenue-based allocation approach, we believe it would be reasonable to cap such contributions; for example, the net contribution from Florida carriers could be set at $50 million.

Second, the states must be allowed to determine what are appropriate levels of intrastate universal service funding. The federal fund cannot be expected to provide all universal service support. Accordingly, an assessment method should be selected

that provides only partial funding, leaving the remainder to the states to provide as they see fit. We have selected two of the proposed options that we believe could meet this goal. Each of these options provides only a portion of the loop costs for high cost areas, leaving the remainder to be funded by the states.

In regard to the fully funded methods outlined in the Report, we believe, due to the potential magnitude of the fund, that a high benchmark, such as $50, should be supported at the federal level. While we provisionally endorsed a $20 benchmark as a starting point for funding in previous comments, we believe a higher benchmark would ensure that only truly high-cost states are recipients of federal funds.

The other method we would support is the use of 40 percent funding, which funds only a portion of loop costs. This percentage was proposed because the interstate revenue stream nationally is approximately 40 percent of total telecommunications revenues. Under this option, funding is based on the costs above a relatively low benchmark. The assessment as proposed would be based on interstate revenues only, with 40 percent of the costs being funded. As with the full funding method at a higher benchmark, this method would permit flexibility for the states to determine what additional funding is necessary to support universal service for their state.

LEC Receipts/Payments

The other major area of concern is the potential impact on the LECs. In some instances, LECs could suffer a reduction in funding, while in others they may receive a windfall. Under one of the options contained in the Report, Florida LECs could receive net payments of $384,836,000, compared to present receipts of $28,825,000. Under another option, Florida LECs would pay out a net amount of $57,647,000.

It is not clear to us what the substantial changes in funding are intended to provide. Although it appears from the Recommended Decision that the new mechanism will replace the current high-cost fund, DEM weighting, and Long Term Support (LTS), there is no apparent requirement that it replace the present funding on a dollar for dollar basis. Further, there does not appear to be an explicit requirement that LECs which receive "new" universal service monies (funding in excess of the amounts received from the current US fund and other US mechanisms) must reduce or eliminate rates for certain services. With either increased or decreased funding, it could befall the states to engage in major restructuring of intrastate rates, due to the states' general jurisdiction over intrastate rates. This potentially could lead to significant impacts on the ratepayers of those states, particularly where reduced funding may cause

revenue shortfalls for the LECs. We question how such an outcome would enhance universal service.

We believe it would be appropriate for the FCC first to determine the implicit federal subsidies, such as DEM weighting and LTS, that should be replaced through an explicit fund, and quantify the amounts associated with those subsidies. Then, a mechanism and a benchmark level should be selected which are "specific, predictable and sufficient"[2] to meet that goal. Intrastate subsidies should be left to the states to deal with as they find appropriate.

Separation of Interstate Revenues for Assessment Purposes

The FPSC does not believe it would be unduly burdensome for companies to separate their interstate revenues for assessment purposes, if the FCC determines that only interstate revenues should be used as an assessable base. Clearly, methods are already in use for such purposes. As discussed by NYNEX, interstate carriers separate their revenues for telecommunications relay service (TRS) assessment purposes. In addition, we note that a similar methodology is used for the reporting of percent interstate use (PIU) for originating and terminating Feature Group A lines and Feature Group B trunk groups. Nevertheless, we favor elimination of complex

[2]Telecommunications Act of 1996, Sec. 254(b)(5)

separations schemes wherever possible. A less complex methodology fits with the notion of less regulation, which we believe is important if competition is to be allowed to take its natural course.

Conclusion

We would note that the FPSC's comments regarding the use of both inter- and intrastate revenues to establish an assessable base for universal service funding, where such comments can be construed as supportive of that method, should not be interpreted as being counter to our continuing challenge to the FCC's interconnection pricing rules, which we believe intrude on state jurisdiction. The federal statutory provisions on universal service and on interconnection are notably different in purpose and application. In addition, we believe the establishment of an assessable base does not equate with a mandatory pricing formula for intrastate rates.

In conclusion, while the FPSC finds merit in assessing both inter- and intrastate revenues for the high cost and low-income portions of the federal universal service mechanism, we have concerns regarding the impact the options that have been proposed would have on the individual states. We recommend that the FCC proceed with caution in designing its new universal service fund, to make certain the assessments for that fund are "specific,

predictable and sufficient" to meet the goals of universal service, as mandated in the Telecommunications Act of 1996.

Respectfully submitted,

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DATED: January 27th, 1997

COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION
CC DOCKET NO. 96-45

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
	)	
	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Public Service Commission Comments have been furnished to the parties on the attached list this 27th day of January, 1997.

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