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Federal Communications Commission
Office of Secretary

May 2, 1997

William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

RE: Ex Parte Notice
CC Docket Nos. 96-45 and 96-262

Dear Mr. Caton:

Yesterday, Bell Atlantic and NYNEX filed a letter in this proceeding, addressed to Chairman Hundt, concerning the new Universal Service program for schools and libraries. USTA staff had the opportunity late yesterday and this morning to discuss this matter with a large cross section of its members from the large, mid-size, and small segments of the local exchange industry. We believe it is important to convey our views.

USTA shares some of the concerns that seem to have prompted the NYNEX/ Bell Atlantic letter. In fact, USTA and the Rural Telephone Coalition, on January 7,1997, filed a letter with the Commission urging it to immediately appoint an interim administrator to begin the challenging process of establishing the infrastructure necessary to collect and distribute the Universal Service funds for schools, libraries, and rural healthcare providers. Those tasks are formidable, and despite the USTA and RTC recommendation, all of them still remain before us.

USTA also believes that the efficient functioning of any Universal Service fund -- regardless of purpose -- requires a "pay as you go" approach. That is, the administrator must constantly work with available data to update the estimate of the needed funding, and to keep contributing telecommunications carriers informed as to their funding obligations. The goal is to have the necessary cash on hand as it is needed to pay out to fund recipients. Just as important, however, is to avoid "stockpiling" large amounts of cash that are not yet needed to satisfy the funds obligations. This balance has been accomplished in the current Universal Service fund, the TRS Fund, and in the LEC tariff pools, and it can and must be achieved in the context of the new fund for schools and libraries. We are confident that telecommunications carriers can be counted on to supply the funds at the time the funds are needed. There is no need to collect those funds in advance and in a lump sum.

Given the uncertainty of this brand new funding mechanism, the Joint Board placed an annual "cap" on the new Universal Service fund. We are confident, however, that the Joint

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Board intended that the logistics of the fund to work essentially as described in the preceding paragraph. But to give some certainty to the telecommunications carriers that would otherwise be faced with a completely open ended funding obligation, the Joint Board put an annual limit, or cap, on the fund. USTA is troubled by proposals that would "carry over" significant amounts of money from year to year, increasing the size of telecommunications carriers' funding obligation well beyond that contemplated by the Federal/State Joint Board and ignoring the purpose of the cap established by that Board. The Joint Board stated the following in explaining the rationale for the cap: "Unlike high cost assistance, long term support, and DEM weighting, there is no historical record of how much it will likely cost to provide the support that Congress directed us to afford to schools and libraries. ... [The] data sources we have reviewed provide some guidance, but they attempt to estimate costs in an area where technologies are developing rapidly and demand is inherently difficult to predict." Certainly, the Joint Board did not intend for the cap to turn the program into a form of block grant. The Joint Board explicitly considered and rejected a block grant approach in Paragraph 515 of its November 8, 1996 recommendation.

USTA suggests that the most sensible course of action is to begin the collection and disbursement of funds on January 1, 1998. The FCC should direct the administrator to supply a good faith estimate of the amount that telecommunications carriers will need to contribute in the 1997-98 tariff year (which we expect would be significantly less than $2.25 billion). If it turns out that there is an actual need for more or for less than the estimate, the administrator, the FCC, and the carriers can make the necessary adjustments. In the 1998-1999 tariff period, the program would be in effect the entire time. Applying the Joint Board recommendation would therefore mean the $2.25 billion cap, as that Board described it, would be in effect during that period.

The Joint Board recommended that this new program be reviewed and evaluated in the third year. Given the uncertainty, concern, and controversy that has been expressed in many quarters, USTA suggests that the Joint Board begin this evaluation at an earlier date. Specifically, the Board should convene in January of 1999 for this purpose. The Board would have at least one year of actual experience, as well as data and estimates from the administrator, to guide their review. To ensure that the review is meaningful and effective, the FCC should not endorse the carry over provisions contained in the NYNEX/Bell Atlantic plan. Instead, we would urge the Commission to allow the Joint Board the flexibility to adjust the funding as they find necessary to comply with the terms of the law, of the public interest, and of the demonstrated requirements of the education community.

USTA understands that new Universal Service support for schools and libraries is a requirement of the 1996 Telecommunications Act, unless changed by legislative or judicial action. We have no intent to complicate the implementation process. At the same time, USTA and many of its individual members have had continuing concerns over the large size of the fund recommended by the Joint Board. Not only has USTA expressed its concern that the funding of

inside wire and Internet may not be consistent with the law, the simple fact is that a new funding obligation of this magnitude is a significant burden on this nation's telecommunications industry. We strongly believe that early Joint Board review is the only appropriate course given the great deal of uncertainty and controversy about the appropriate way to implement these provisions of the Act.

Respectfully submitted,

Mary McDermott
Vice President - Legal & Regulatory Affairs

cc: Chairman Reed Hundt
Commissioner Rachelle Chong
Commissioner Susan Ness
Commissioner James Quello
Thomas Boasberg
James Casserly
James Coltharp
Dan Gonzalez
Regina Keeney
Kathleen Levitz