APPENDIX B - Final Rules

AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS

1. Part 54 of Title 47 of the Code of Federal Regulations (CFR) is amended as follows:

PART 54--UNIVERSAL SERVICE

2. Section 54.507(e) is amended by removing the word "administrator" and adding, in its place, the word "Administrator".

3. Section 54.509(a) is amended by removing the word "administrator" and adding, in its place, the word "Administrator".

4. Section 54.701 is amended by removing all references to "Temporary Administrator".

5. Section 54.5 is amended by revising the definition of "Administrator" and adding the following definitions:

Administrator. The term "Administrator" shall refer to the National Exchange Carrier Association, Inc. until the date that an independent subsidiary of the National Exchange Carrier Association, Inc. is incorporated and has commenced the administration of the universal service support mechanisms. On that date and until the permanent Administrator has commenced the permanent administration of the universal service support mechanisms, the term "Administrator" shall refer to the independent subsidiary established by the National Exchange Carrier Association, Inc. for the purpose of temporarily administering the portions of the universal service support mechanisms described in § 69.616. On the date that the entity selected to permanently administer the universal service support mechanisms commences operations and thereafter, the term "Administrator" shall refer to such entity.

Contributor. The term "contributor" shall refer to an entity required to contribute to the universal service support mechanisms pursuant to § 54.703.

High Cost and Low Income Committee. The term "High Cost and Low Income Committee" shall refer to a committee of the Board of Directors of the Administrator's independent subsidiary that will have the power and authority to bind the independent subsidiary's Board of Directors on issues relating to the administration of the high cost and low-income support mechanisms, as described in § 69.615.

Rural Health Care Corporation. The term "Rural Health Care Corporation" shall refer to the corporation created pursuant to § 69.617 that shall administer specified portions of the universal service support mechanisms, as described in § 69.618.

Schools and Libraries Corporation. The term "Schools and Libraries Corporation" shall refer

to the corporation created pursuant to § 69.617 that shall administer specified portions of the universal service support mechanisms, as described in § 69.619.

6. Section 54.504 is amended by revising the first sentence of paragraph (b)(1), revising paragraph (b)(2)(vii), and revising the first sentence of paragraph (b)(3) to read as follows:

* * * * *

(b)(1) Schools, libraries, and consortia, including those entities wishing to receive discounts for eligible services under this subpart, shall submit requests for services to the Schools and Libraries Corporation. * * *

* * * * *

(b)(2)(vii) the school, library, or consortium including those entities has a technology plan that has been certified by its state, the Schools and Libraries Corporation, or an independent entity approved by the Commission.

(3) After posting a description of services from a school, library, or consortium of these entities on the school and library website, the Schools and Libraries Corporation shall send confirmation of the posting to the entity requesting services. That entity shall then wait at least four weeks from the date on which its description of services is posted on the website before making commitments with the selected providers of services. The confirmation from the Schools and Libraries Corporation shall include the date after which the requestor may sign a contract with its chosen provider(s).

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7. Section 54.505 is amended by revising paragraphs (b)(3) and (c) to read as follows:

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(b)(3) The Schools and Libraries Corporation shall classify schools and libraries as "urban" or "rural" based on location in an urban or rural area, according to the following designations.

* * * * *

(c) *Matrix.* The Schools and Libraries Corporation shall use the following matrix to set a discount rate to be applied to eligible interstate services purchased by eligible schools, school districts, libraries, or library consortia based on the institution's level of poverty and location in an "urban" or "rural" area.

* * * * *

8. Section 54.507 is amended by revising the first sentence of paragraph (a), the second sentence of paragraph (c), paragraph (f)(1), and paragraph (f)(4) to read as follows:

(a) *Amount of the Annual Cap.* The annual cap on federal universal service support for schools and libraries shall be $2.25 billion per funding year, and all funding authority for a given funding year that is unused shall be carried forward into subsequent years for use in accordance with demand, with two exceptions. * * *

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(c) * * * The Schools and Libraries Corporation shall maintain a running tally of the funds already committed for the existing funding year on the school and library website.

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(f)(1) The Schools and Libraries Corporation shall post a message on the school and library website, notify the Commission, and take reasonable steps to notify the educational and library communities that commitments for the remaining $250 million of support will only be made available to the most economically disadvantaged schools and libraries (those in the two most disadvantaged categories) for the next 30 days or the remainder of the funding year, whichever is shorter.

* * * * *

(f)(4) The Administrator shall notify the Schools and Libraries Corporation of any funds still remaining after all requests submitted by schools and libraries described in paragraphs (f)(2) and (f)(3) of this section during the 30-day period have been met. The Schools and Libraries Corporation shall direct the Administrator to allocate the remaining available funds to all other eligible schools and libraries in the order in which their requests have been received by the Schools and Libraries Corporation, until the $250 million is exhausted or the funding year ends.

9. Section 54.509 is amended by revising paragraphs (b) and (c) to read as follows:

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(b) *Reduction in Percentage Discounts.* If the estimates schools and libraries make of their future funding needs lead the Schools and Libraries Corporation to predict that total funding requests for a funding year will exceed the available funding, the Schools and Libraries Corporation shall calculate the percentage reduction to all schools and libraries, except those in the two most disadvantaged categories, necessary to permit all requests in the next funding year to be fully funded.

(c) *Remaining Funds.* If funds remain under the cap at the end of the funding year in which discounts have been reduced below those set in the matrices above, the Administrator shall inform the Schools and Libraries Corporation of such remaining funds. The Schools and Libraries Corporation then shall consult with the Commission to establish the best way to

distribute those funds.

10. Section 54.516 is amended by revising paragraph (b) to read as follows:

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(b) *Production of Records.* Schools and libraries shall produce such records at the request of any auditor appointed by a state education department, the Schools and Libraries Corporation, or any state or federal agency with jurisdiction.

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11. Section 54.603 is amended by revising paragraph (b)(2), the first sentence of paragraph (b)(3), paragraph (b)(4), and paragraph (b)(5) to read as follows:

* * * * *

(b)(2) The Rural Health Care Corporation shall post each request for eligible services that it receives from an eligible health care provider on the corporation's website designated for this purpose.

(b)(3) After posting a description of services from a health care provider on the website, the Rural Health Care Corporation shall send confirmation of the posting to the entity requesting services. * * *

(b)(4) After selecting a telecommunications carrier, the health care provider shall certify to the Rural Health Care Corporation that the provider is selecting the most cost-effective method of providing the requested service or services, where the most cost-effective method of providing a service is defined as the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services. The health care provider shall submit to the Rural Health Care Corporation paper copies of the responses or bids received in response to the requested services.

(b)(5) The confirmation from the Rural Health Care Corporation shall include the date after which the requester may sign a contract with its chosen telecommunications carrier(s).

12. Section 54.609 is amended by revising the second sentence of paragraph (b) to read as follows:

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(b) * * * Absent documentation justifying the amount of universal service support requested for health care providers participating in a consortium, the Rural Health Care Corporation shall not allow telecommunications carriers to offset, or receive reimbursement for, the amount eligible for universal service support.

13. Sections 54.709-54.715 are added to read as follows:

§ 54.709 Computations of required contributions to universal service support mechanisms.

(a) Contributions to the universal service support mechanisms shall be based on contributors' end-user telecommunications revenues and contribution factors determined quarterly by the Administrator.

(1) For funding the schools and libraries and rural health care programs, the subject revenues will be contributors' interstate, intrastate, and international revenues derived from domestic end users for telecommunications or telecommunications services. For funding the high cost and low-income programs, the subject revenues will be contributors' interstate and international revenues derived from domestic end users for telecommunications or telecommunications services.

(2) The quarterly universal service contribution factors shall be based on the ratio of total projected quarterly expenses of the universal service support programs to total end-user telecommunications revenues. The Commission shall determine two contribution factors, one of which shall be applied to interstate and international end-user telecommunications revenues and the other of which shall be applied to interstate, intrastate, and international end-user telecommunications revenues. The Commission shall approve the Administrator's, the Schools and Libraries Corporation's, and the Rural Health Care Corporation's quarterly projected costs of universal service support programs, taking into account demand for support and administrative expenses. The total subject revenues shall be compiled by the Administrator based on information contained in the Universal Service Worksheets described in § 54.711(a).

(3) Total projected expenses for universal service support programs for each quarter must be approved by the Commission before they are used to calculate the quarterly contribution factors and individual contributions. For each quarter, the High Cost and Low Income Committee or the permanent Administrator once the permanent administrator is chosen and the Schools and Libraries and Rural Health Care Corporations must submit their projections of demand for the high cost and low-income programs, the schools and libraries program, and rural health care program, respectively, and the basis for those projections, to the Commission and the Common Carrier Bureau at least 60 calendar days prior to the start of that quarter. For each quarter, the Administrator and the Schools and Libraries and Rural Health Care Corporations must submit their projections of administrative expenses for the high cost and low-income programs, the schools and libraries program and the rural health care program, respectively, and the basis for those projections to the Commission and the Common Carrier Bureau at least 60 calendar days prior to the start of that quarter. The projections of demand and administrative expenses and the contribution factors shall be announced by the Commission in a Public Notice published in the Federal

Register and shall be made available on the Commission's website. The Commission reserves the right to set projections of demand and administrative expenses at amounts that the Commission determines will serve the public interest at any time within the 14-day period following publication of the Commission's Public Notice. If the Commission takes no action within 14 days of the date of the Public Notice announcing the projections of demand and administrative expenses, the projections of demand and administrative expenses, and contribution factors shall be deemed approved by the Commission. Once the projections are approved, the Administrator shall apply the quarterly contribution factors to determine individual contributions.

(4) The Administrator shall bill contributors and collect contributions on a quarterly basis.

(b) If the contributions received by the Administrator in a quarter exceed the amount of universal service support program contributions and administrative costs for that quarter, the excess payments will be carried forward to the following quarter. The contribution factors for the following quarter will take into consideration the projected costs of the support mechanisms for that quarter and the excess contributions carried over from the previous quarter.

(c) If the contributions received by the Administrator in a quarter are inadequate to meet the amount of universal service support program payments and administrative costs for that quarter, the Administrator shall request authority from the Commission to borrow funds commercially, with such debt secured by future contributions. Subsequent contribution factors will take into consideration the projected costs of the support mechanisms and the additional costs associated with borrowing funds.

(d) If a contributor fails to file a Universal Service Worksheet by the date on which it is due, the Administrator shall bill that contributor based on whatever relevant data the Administrator has available, including, but not limited to, the number of lines presubscribed to the contributor and data from previous years, taking into consideration any estimated changes in such data.

§ 54.711 Contributor reporting requirements.

(a) Contributions shall be calculated and filed in accordance with the Universal Service Worksheet. The Universal Service Worksheet sets forth information that the contributor must submit to the Administrator on a semi-annual basis. The Commission shall announce by Public Notice published in the Federal Register and on its website the manner of payment and dates by which payments must be made. An officer of the contributor must certify to the truth and accuracy of the Universal Service Worksheet, and the Commission or the Administrator may verify any information contained in the Universal Service Worksheet at the discretion of the Commission. Inaccurate or untruthful information contained in the Universal Service Worksheet may lead to prosecution under the criminal provisions of Title

18 of the United States Code. The Administrator shall advise the Commission of any enforcement issues that arise and provide any suggested response.

(b) The Commission shall have access to all data reported to the Administrator, Rural Health Care Corporation, and Schools and Libraries Corporation. Contributors may make requests for Commission nondisclosure of company-specific information under § 0.459 at the time that the subject data are submitted to the Administrator. The Commission shall make all decisions regarding nondisclosure of company-specific information. The Administrator, Rural Health Care Corporation, and Schools and Libraries Corporation shall keep confidential all data obtained from contributors, shall not use such data except for purposes of administering the universal service support programs, and shall not disclose such data in company-specific form unless directed to do so by the Commission.

(c) The Bureau may waive, reduce, or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the universal service support mechanisms.

§ 54.713 Contributors' failure to report or to contribute.

A contributor that fails to file a Universal Service Worksheet and subsequently is billed by the Administrator shall pay the amount for which it is billed. The Administrator may bill a contributor a separate assessment for reasonable costs incurred because of that contributor's filing of an untruthful or inaccurate Universal Service Worksheet, failure to file the Universal Service Worksheet, or late payment of contributions. Failure to file the Universal Service Worksheet or to submit required quarterly contributions may subject the contributor to the enforcement provisions of the Act and any other applicable law. The Administrator shall advise the Commission of any enforcement issues that arise and provide any suggested response. Once a contributor complies with the Universal Service Worksheet filing requirements, the Administrator may refund any overpayments made by the contributor, less any fees, interest, or costs.

§ 54.715 Administrator's functions

The Administrator shall have the same functions as the independent subsidiary set out in § 69.616 of the Commission's rules.

14. Part 69 of Title 47 of the CFR is amended as follows:

PART 69--ACCESS CHARGES

15. The authority citation for part 69 is revised to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 220, 403, 254, 48 Stat. 1066, 1070, 1072, 1077,

1094, as amended, 47 U.S.C. §§ 154, 201, 202, 203, 205, 218, 220, 254, 403.

16. Section 69.600 is added to include the following definitions:

High Cost and Low Income Committee. The term "High Cost and Low Income Committee" shall refer to a committee of the Board of Directors of the Administrator's independent subsidiary that will have the power and authority to bind the independent subsidiary's Board of Directors on issues relating to the administration of the high cost and low-income support mechanisms, as described in § 69.615.

Rural Health Care Corporation. The term "Rural Health Care Corporation" shall refer to the corporation created pursuant to § 69.617 that shall administer specified portions of the universal service support mechanisms, as described in § 69.618.

Schools and Libraries Corporation. The term "Schools and Libraries Corporation" shall refer to the corporation created pursuant to § 69.617 that shall administer specified portions of the universal service support mechanisms, as described in § 69.619.

17. Section 69.603 is amended by deleting paragraph (f) and revising paragraphs (c), (d), and (e) to read as follows:

§ 69.603 Association functions.

* * * * *

(c) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to § 69.613(a), will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer administer the Universal Service charge, including the direct billing to and collection of associated revenues on a monthly basis from interexchange carriers pursuant to § 60.116 and the distribution of these revenues to qualified telephone companies based on their share of expenses assigned to the Universal Service Factor portion of the interstate allocation pursuant to § 36.631. Such functions shall be assumed by the independent subsidiary of the association as provided in § 69.613. Commencing on January 1, 1998, the billing and collection of universal service support for high cost areas shall be performed in a manner consistent with § 54.709.

(d) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to § 69.613, will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer administer the Lifeline Assistance charge, including the direct billing to and collection of associated revenues on a monthly basis from interexchange carriers pursuant to § 69.117, and the distribution of these revenues to qualified telephone companies based on their share of expenses assigned to the Lifeline Assistance Fund pursuant to § 36.741 and of End User Common Line charges associated with the operation of § 69.104(j)-(l). Such functions shall

be assumed by the independent subsidiary of the association as provided in § 69.613. Commencing on January 1, 1998, the billing and collection of Lifeline support shall be performed in a manner consistent with § 54.709.

(e) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to § 69.613, will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer compute, in accordance with §§ 69.105 and 69.612, the mandatory Long Term Support payment of telephone companies that are not association Common Line tariff participants, bill or collect the appropriate amounts on a monthly basis from such telephone companies, or distribute Long Terms Support revenue among association Carrier Common Line tariff participants. Such functions shall be assumed by the independent subsidiary of the association as provided in § 69.613. Commencing on January 1, 1998, the computation, billing, and collection of Long Term Support shall be performed in a manner consistent with § 54.303.

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18. Sections 69.613-69.620 are added to read as follows:

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§ 69.613 Temporary administrator of universal service support mechanisms.

(a) The association shall establish an independent subsidiary through which the association shall administer temporarily the portions of the universal service support mechanisms described in § 69.616 until the permanent Administrator is established and ready to commence operations. The independent subsidiary shall be incorporated under the laws of Delaware and shall be designated the Universal Service Administrative Company. The association shall submit the independent subsidiary's proposed articles of incorporation, bylaws, and any other documents necessary to incorporate the independent subsidiary to the Commission by August 1, 1997 for review prior to the independent subsidiary's incorporation.

(b) As a condition of its appointment as the temporary Administrator of the universal service support mechanisms, the association shall agree to make available, if the association or its independent subsidiary is not appointed permanent Administrator, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from the independent subsidiary's temporary administration of the universal service support mechanisms, and to make such property available to whomever the Commission directs, free of charge. Such property includes, but is not limited to, databases, processing systems, computer software programs, lists, records, information, or equipment created or purchased and used in the temporary administration of the universal service support mechanisms. The association must specify any property it proposes to exclude from the foregoing types of property based on the existence of such property prior to the effective date of the association's appointment as the temporary Administrator.

(c) As a further condition of its appointment as the temporary Administrator of the universal service support mechanisms, the association and the independent subsidiary must provide services to the Corporations, such as contracting for the services of association or independent subsidiary employees, loans or transfers of assets, upon the request of the Corporations and on reasonable terms.

§ 69.614 Independent subsidiary Board of Directors.

(a) The independent subsidiary described in § 69.613(a) shall have a Board of Directors separate from the association's Board of Directors. Except as expressly permitted, the association's Board of Directors shall be prohibited from participating in the functions of the independent subsidiary.

(b) The independent subsidiary's Board of Directors shall consist of 17 directors:

(1) Three directors shall represent incumbent local exchange carriers, with one director representing the Bell Operating Companies and GTE, one director representing ILECs (other than the Bell Operating Companies) with annual operating revenues in excess of $40 million, and one director representing ILECs (other than the Bell Operating Companies) with annual operating revenues of $40 million or less;

(2) Two directors shall represent interexchange carriers, with one director representing interexchange carriers with more than $3 billion in annual operating revenues and one director representing interexchange carriers with annual operating revenues of $3 billion or less;

(3) One director shall represent commercial mobile radio service (CMRS) providers;

(4) One director shall represent competitive local exchange carriers;

(5) One director shall represent cable operators;

(6) One director shall represent information service providers;

(7) Three directors shall represent schools that are eligible to receive discounts pursuant to § 54.501;

(8) One director shall represent libraries that are eligible to receive discounts pursuant to § 54.501;

(9) One director shall represent rural health care providers that are eligible to receive supported services pursuant to § 54.601;

(10) One director shall represent low-income consumers;

(11) One director shall represent state telecommunications regulators; and

(12) One director shall represent state consumer advocates.

(c) The industry and non-industry groups that will be represented on the independent subsidiary's Board of Directors as specified in § 69.614(b)(1)-(12) shall nominate by consensus the independent subsidiary's directors. Each of these industry and non-industry groups shall submit the name of its nominee for a seat on the independent subsidiary's Board of Directors, along with relevant professional and biographical information about the nominee, to the Chairman of the Federal Communications Commission within 14 calendar days of the publication of these rules in the Federal Register. Only members of the industry or non-industry group that a Board member will represent may submit a nomination for that position.

(d) The Chairman of the Federal Communications Commission shall review the nominations submitted by industry and non-industry groups and shall select the independent subsidiary's Board of Directors. If an industry or non-industry group does not reach consensus on a nominee or fails to submit a nomination for a position on the independent subsidiary's Board of Directors, the Chairman of the Federal Communications Commission shall select an individual to represent such group on the independent subsidiary's Board of Directors.

(e) The directors on the independent subsidiary's Board shall be appointed for two-year terms and may be reappointed for subsequent terms pursuant to the initial nomination and appointment process described in subsection (d). If a Board member vacates his or her seat prior to the completion of his or her term, the independent subsidiary will notify the Common Carrier Bureau of such vacancy, and a successor will be chosen pursuant to the initial nomination and appointment process described in subsection (d).

(f) The independent subsidiary's Board of Directors shall convene its first meeting within 14 calendar days of the appointment of the directors to the independent subsidiary's Board.

(g) All meetings of the independent subsidiary's Board of Directors shall be open to the public and held in Washington, D.C.

(h) Each member of the independent subsidiary's Board of Directors shall be entitled to receive reimbursement for expenses directly incurred as a result of his or her participation on the independent subsidiary's Board of Directors.

§ 69.615 High Cost and Low Income Committee.

The independent subsidiary's Board of Directors shall require in its bylaws the creation

of a High Cost and Low Income Committee with the power and authority to bind the independent subsidiary's Board of Directors on issues relating to the administration of the high cost and low-income support mechanisms, as specifically delineated in the independent subsidiary's bylaws. The High Cost and Low-Income Committee will consist of ten members: the seven service provider representatives (i.e., the representatives listed in § 69.614(b)(1)-(4)) and the low-income, state consumer advocate, and state telecommunications regulator representatives. In the event that a majority of the members of the Committee is unable to reach a decision, the Chairman of the Committee is authorized to cast an additional vote to resolve the deadlock.

§ 69.616 Independent subsidiary functions.

(a) The independent subsidiary shall be solely responsible for administering the universal service support mechanisms for high-cost areas and low-income consumers, including billing contributors, collecting contributions to the universal service support mechanisms, and disbursing universal service support funds. The independent subsidiary also shall be required to perform any other duties of the Administrator that relate to the billing, collection, and disbursement of funds that are specified elsewhere in the Commission's universal service rules.

(b) With respect to the universal service support mechanisms for schools, libraries, and rural health care providers, the independent subsidiary shall be responsible for billing contributors to the universal service support mechanisms, collecting contributions to the universal service support mechanisms, and disbursing universal service support funds within 20 days following receipt of authorization to disburse such funds from the Schools and Libraries Corporation and Rural Health Care Corporation.

(c) The independent subsidiary may advocate positions before the Commission and its staff only on administrative matters relating to the universal service support mechanisms.

(d) The independent subsidiary shall maintain books of account separate from those of the association. The independent subsidiary's books of account shall be maintained in accordance with generally accepted accounting principles. The independent subsidiary may borrow start-up funds from NECA. Such funds may not be drawn from the Telecommunications Relay Services (TRS) fund or TRS administrative expense accounts.

§ 69.617 Schools and Libraries Corporation and Rural Health Care Corporation.

(a) *Schools and Libraries and Rural Health Care Corporations.* The association shall incorporate two unaffiliated corporations. The two corporations shall be not-for-profit, non-stock corporations incorporated in the state of Delaware. The corporations shall be designated the Schools and Libraries Corporation and the Rural Health Care Corporation. After incorporating the Schools and Libraries Corporation and the Rural Health Care Corporation, the association shall take such steps as are necessary to make the Corporations independent of,

and unaffiliated with, the association and independent subsidiary. The association shall submit to the Commission for approval the proposed articles of incorporation, bylaws, and any documents necessary to incorporate the Schools and Libraries Corporation and Rural Health Care Corporation by August 1, 1997. The Schools and Libraries Corporation and Rural Health Care Corporation should continue to perform their designated functions, as described in §§ 69.618 and 69.619, after the date on which the permanent Administrator is selected and commences operations.

(b) *Schools and Libraries Corporation's Board of Directors.* The Board of Directors of the Schools and Libraries Corporation shall consist of seven directors and will be composed as follows:

(1) The three directors representing eligible schools on the independent subsidiary's Board of Directors also shall serve on the Board of Directors of the Schools and Libraries Corporation;

(2) The director representing eligible libraries on the independent subsidiary's Board of Directors also shall serve on the Board of Directors of the Schools and Libraries Corporation.

(3) One director representing one of the categories of telecommunications service providers on the independent subsidiary's Board of Directors also shall serve on the Schools and Libraries Corporation's Board of Directors. The independent subsidiary's Board of Directors shall select the telecommunications service provider representative who will serve on the Schools and Libraries Corporation's Board of Directors within seven calendar days of the first meeting of the independent subsidiary's Board of Directors;

(4) One independent director who does not represent schools, libraries, or service providers shall be selected by the Chairman of the Federal Communications Commission to serve on the Schools and Libraries Corporation's Board of Directors. The Chairman of the Federal Communications Commission will select such an independent director simultaneously with selection of the independent subsidiary's Board members.

(5) The directors representing schools, libraries, and service providers and the independent director on the Schools and Libraries Corporation's Board of Directors shall submit to the Chairman of the Federal Communications Commission a candidate to serve as the Chief Executive Officer (CEO) of the Schools and Libraries Corporation. The chosen CEO shall serve on the Schools and Libraries Corporation's Board of Directors.

(c) *Rural Health Care Corporation's Board of Directors.* The Board of Directors of the Rural Health Care Corporation shall consist of five directors and will be composed as follows:

(1) The director representing rural health care providers on the independent

subsidiary's Board of Directors also shall serve on the Rural Health Care Corporation's Board of Directors;

(2) An additional director representing rural health care providers also shall serve on the Rural Health Care Corporation's Board of Directors. Interested parties shall submit nominations for the additional director representing rural health care providers simultaneously with submitting nominations for the independent subsidiary's Board of Directors, as described in § 69.614(c). The Chairman of the Federal Communications Commission will select the additional rural health care provider representative simultaneously with the selection of the members of the independent subsidiary's Board of Directors.

(3) One director representing one of the categories of telecommunications service providers on the independent subsidiary's Board of Directors also shall serve on the Rural Health Care Corporation's Board of Directors. The independent subsidiary's Board of Directors shall select the telecommunications service provider representative who will serve on the Rural Health Care Corporation's Board within seven calendar days of the first meeting of the independent subsidiary's Board of Directors;

(4) One independent director who does not represent rural health care providers or service providers shall be selected by the Chairman of the Federal Communications Commission to serve on the Rural Health Care Corporation's Board of Directors. The Chairman will select, simultaneously with selection of the independent subsidiary's Board of Directors, the independent director to serve on the Rural Health Care Corporation's Board of Directors;

(5) The directors representing rural health care providers and service providers and the independent director on the Rural Health Care Corporation's Board of Directors shall submit to the Chairman of the Federal Communications Commission a candidate to serve as the chief executive officer (CEO) of the Rural Health Care Corporation. The chosen CEO shall serve on the Rural Health Care Corporation's Board of Directors.

(d) All of the Board members of the Schools and Libraries Corporation and Rural Health Care Corporation shall be appointed for two-year terms. Directors may be reappointed for subsequent terms pursuant to the appointment process used initially to select the Corporations' Boards of Directors described in § 69.617 (b) and (c). In the event that a director vacates his or her seat prior to the completion of his or her term, the Corporation will notify the Common Carrier Bureau of such vacancy and a successor will be chosen pursuant to the initial nomination and appointment process described in § 69.617(b) and (c). Removal of members from the Board of the Schools and Libraries Corporation or Rural Health Care Corporation may only occur with the approval of the Chairman of the Federal Communications Commission.

(e) All Board of Directors meetings of the Rural Health Care Corporation and the Schools and Libraries Corporation shall be open to the public and held in Washington, D.C.

(f) Each member of the Board of Directors of the Rural Health Care Corporation and Schools and Libraries Corporation shall be entitled to receive reimbursement for expenses directly incurred as a result of his or her participation on such Board of Directors.

§ 69.618 Rural Health Care Corporation functions.

(a) The Rural Health Care Corporation shall perform the following functions as they relate to the support mechanisms for eligible rural health care providers:

(1) administering the application process for rural health care providers, including the dissemination, processing, and review of applications for service from rural health care providers;

(2) creating and maintaining a website on which applications for services will be posted on behalf of rural health care providers;

(3) performing outreach and public education functions;

(4) reviewing bills for services that are submitted by rural health care providers on which service providers designate the amount of universal service support they should receive for services rendered and on which rural health care providers and confirm that they have received such services;

(5) monitoring demand for the purpose of determining when the $400 million cap has been reached in the case of the rural health care providers program;

(6) submitting to the Commission all quarterly projections of demand and administrative expenses, as described in § 54.709(a)(3);

(7) informing the independent subsidiary, as quickly as possible, but no later than 20 days following the Rural Health Care Corporation's receipt of the bills for services, of the amount of universal service support to be disbursed to service providers;

(8) authorizing the performance of audits of rural health care provider beneficiaries of universal service support; and

(9) any other function relating to the administration of the rural health care program that is not specifically assigned to the independent subsidiary.

(b) The Rural Health Care Corporation shall maintain books of account separate from those of the association, the independent subsidiary, and the Schools and Libraries Corporation. The Rural Health Care Corporation's books of account shall be maintained in accordance with generally accepted accounting principles.

(c) The Rural Health Care Corporation may borrow start-up funds from the association or the independent subsidiary, but such funds may not come from the Telecommunications Relay Services (TRS) fund or TRS administrative expense accounts.

(d) The Rural Health Care Corporation shall make available to whomever the Commission directs, free of charge, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from its role in administering the rural health care program, if its participation in administering the rural health care program ends. The Rural Health Care Corporation must specify any property it proposes to exclude from the foregoing types of property based on the existence of such property prior to the incorporation of the Rural Health Care Corporation.

§ 69.619 Schools and Libraries Corporation functions.

(a) The Schools and Libraries Corporation shall perform the following functions as they relate to the support mechanisms for eligible schools and libraries:

(1) administering the application process for schools and libraries including the dissemination, processing, and review of applications for service from schools and libraries;

(2) creating and maintaining a website on which applications for services will be posted on behalf of schools and libraries;

(3) performing outreach and public education functions;

(4) reviewing bills for services that are submitted by schools and libraries and on which service providers designate the amount of universal service support they should receive for services rendered and on which schools and libraries confirm that they have received such services;

(5) monitoring demand for the purpose of determining when the $2 billion trigger has been reached in the case of the schools and libraries program;

(6) submitting to the Commission all quarterly projections of demand and administrative expenses, as described in § 54.709(a)(3);

(7) informing the independent subsidiary, as quickly as possible, but no later than 20 days following the Schools and Libraries Corporation's receipt of the bills for services, of the amount of universal service support to be disbursed to service providers;

(8) authorizing the performance of audits of schools and libraries beneficiaries of universal service support; and

(9) any other function relating to the administration of the schools and libraries

programs that is not specifically assigned to the independent subsidiary.

(b) The Schools and Libraries Corporation shall implement the rules of priority in accordance with § 54.507(f).

(c) The Schools and Libraries Corporation may review and certify schools' and libraries' technology plans when a state agency has indicated that it will be unable to review such plans within a reasonable time.

(d) The Schools and Libraries Corporation shall classify schools and libraries as urban or rural and use the discount matrix established in § 54.505(c) to set the discount rate to be applied to services purchased by eligible schools and libraries.

(e) The Schools and Libraries Corporation shall maintain books of account separate from those of the association, the independent subsidiary, and the Rural Health Care Corporation. The Schools and Libraries Corporation's books of account shall be maintained in accordance with generally accepted accounting principles.

(f) The Schools and Libraries Corporation may borrow start-up funds from the association or the independent subsidiary, but such funds may not come from the Telecommunications Relay Services (TRS) fund or TRS administrative expense accounts.

(g) The Schools and Libraries Corporation shall make available to whomever the Commission directs, free of charge, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from its role in administering the schools and libraries program, if its participation in administering the schools and libraries program ends. The Schools and Libraries Corporation must specify any property it proposes to exclude from the foregoing types of property based on the existence of such property prior to the incorporation of the Schools and Libraries Corporation.

§ 69.620 Administrative expenses of independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation.

(a) The annual administrative expenses of the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation should be commensurate with the administrative expenses of programs of similar size and may include, but are not limited to, salaries of officers and operations personnel, the costs of borrowing funds, equipment costs, operating expenses, directors' expenses, and costs associated with auditing contributors or support recipients.

(b) The independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall submit to the Commission projected quarterly budgets at least 60 days prior to the start of every quarter. The Commission must approve the projected quarterly budgets before the independent subsidiary disburses funds for administrative expenses to the

Schools and Libraries Corporation and Rural Health Care Corporation. The Schools and Libraries Corporation's and Rural Health Care Corporation's administrative expenses shall be paid from the universal support mechanisms. The administrative expenses of the Schools and Libraries Corporation and Rural Health Care Corporation shall be deducted from their respective programs' annual funding, which is capped at $2.25 billion in the case of the schools and libraries program, as established in § 54.507, and capped at $400 million in the case of the rural health care providers program, as established in § 54.623. The Schools and Libraries Corporation and Rural Health Care Corporation shall receive payments for administrative expenses from the permanent Administrator under the same terms as they shall receive payments pursuant to this subsection.

§ 69.621 Audits of independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation.

(a) The independent subsidiary, the Schools and Libraries Corporation, and the Rural Health Care Corporation shall obtain and pay for annual audits conducted by independent auditors to examine their operations and books of account to determine, among other things, whether they are properly administering the universal service support mechanisms to prevent fraud, waste, and abuse:

(1) Before selecting an independent auditor, the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall submit preliminary audit requirements, including the proposed scope of the audits and the extent of compliance and substantive testing, to the Common Carrier Bureau Audit Staff;

(2) The Common Carrier Bureau Audit Staff shall review the preliminary audit requirements to determine whether they are adequate to meet the audit objectives. The Common Carrier Bureau Audit Staff shall prescribe modifications that shall be incorporated into the final audit requirements;

(3) After the audit requirements have been approved by the Common Carrier Bureau Audit Staff, the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation each shall engage within 30 calendar days an independent auditor to conduct the annual audit required by this subsection. In making their selections, the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall not engage any independent auditor who has been involved in designing any of the accounting or reporting systems under review in the audit;

(4) The independent auditors selected by the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation to conduct the annual audits shall develop detailed audit programs based on the final audit requirements and submit them to the Common Carrier Bureau Audit Staff. The Common Carrier Bureau Audit Staff shall review the audit programs and make modifications, as needed, that shall be incorporated into the final audit programs. During the course of the audits, the Common Carrier Bureau Audit

Staff may direct the independent auditors to take any actions necessary to ensure compliance with the audit requirements;

(5) During the course of the audits, the independent auditors shall:

(a) Inform the Common Carrier Bureau Audit Staff of any revisions to the final audit programs or to the scope of the audits;

(b) Notify the Common Carrier Bureau Audit Staff of any meetings with the independent subsidiary, the association, Schools and Libraries Corporation, or Rural Health Care Corporation in which audit findings are discussed;

(c) Submit to the Chief of the Common Carrier Bureau, any accounting or rule interpretations necessary to complete the audit.

(6) Within 60 calendar days after the end of the audit period, but prior to discussing the audit findings with the independent subsidiary, the association, Schools and Libraries Corporation, or Rural Health Care Corporation, the independent auditors shall be instructed to submit drafts of the audit reports to the Common Carrier Bureau Audit Staff;

(7) The Common Carrier Bureau Audit Staff shall review the audit findings and audit workpapers and offer its recommendations concerning the conduct of the audits or the audit findings to the independent auditors. Exceptions of the Common Carrier Bureau Audit Staff to the findings and conclusions of the independent auditors that remain unresolved shall be included in the final audit reports;

(8) Within 15 calendar days after receiving the Common Carrier Bureau Audit Staff's recommendations and making any revisions to the audit reports, the independent auditors shall submit the audit reports to the respective audit subjects for their responses to the audit findings. At this time they must also send copies of their audit findings to the Common Carrier Bureau Audit Staff. The independent auditors shall be provided additional time to perform additional audit work recommended by the Common Carrier Bureau Audit Staff;

(9) Within 30 calendar days after receiving the audit reports, the audit subjects shall respond to the audit findings and send copies of their responses to the Common Carrier Bureau Audit Staff. Any reply that the independent auditors wish to make to the audit subjects' responses shall be sent to the Common Carrier Bureau Audit Staff as well as the audit subjects. The audit subjects' responses and the independent auditors' replies shall be included in the final audit reports;

(10) Within 10 calendar days after receiving the responses of the audit subjects, the independent auditors shall file with the Commission the final audit reports;

(11) Based on the final audit reports, the Chief of the Common Carrier Bureau

may take any action necessary to ensure that the universal service support mechanisms operate in a manner consistent with the requirements of Part 54, as well as such other action as is deemed necessary and in the public interest.

§ 69.622 Transition to the permanent Administrator.

(a) If the association or the independent subsidiary is not appointed the permanent Administrator, the association, independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall cooperate fully in making the permanent Administrator operational.

(b) The association and independent subsidiary shall take all steps necessary to maintain the division of responsibilities between the association, independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation as set forth in Parts 54 and 69 of these rules or such other steps that the Commission may order.

* * * * *

DRAFT

FCC Form 457

Universal Service Worksheet

Approval by OMB
3060-_____
Expires ___/___/___

Please read instructions before completing. Report actual amounts billed to customers and contributors during the filing period without subtracting uncollectibles or international settlement payments. Report revenues in whole dollars. Do not report negative amounts.

Block 1: Contributor Identification

1	Legal name of contributor	
2	IRS employer identification number	TRS Company Code
3	Name contributor is doing business as	

4 Principal communications business (check only one)

- ☐ Shared Tenant Service Provider
- ☐ Payphone Service Provider
- ☐ Private Service Provider
- ☐ Incumbent LEC
- ☐ CAP/CLEC
- ☐ Local Reseller
- ☐ Other Local
- ☐ Cellular/PCS/SMR (wireless telephony)
- ☐ Paging & Messaging
- ☐ Wireless Data
- ☐ Other Mobile
- ☐ IXC
- ☐ Toll Reseller
- ☐ OSP
- ☐ Satellite
- ☐ Pre-paid Card
- ☐ Other Toll

If Other Local, Other Mobile, or Other Toll is checked, describe contributor type below.

5	Holding company	
6	Management company (if contributor is managed by another entity)	
7	Principal Carrier Identification Code used for interexchange service	
8	Complete mailing address of contributor's corporate headquarters	
9	Telephone number for customer inquiries	( )

Block 2: Contact Information

10	Name of contact person			
11a	Telephone number of contact person	( )	11b Fax number	( )
12	E-mail of contact person			
13	Complete mailing address of contact: [Filing information and future Universal Service Worksheets will be sent to this address.]			
14	Billing address: [Bills for Universal Service contributions will be sent to this address.]			

Block 3: Certification: (To be signed by an officer of the contributor.)

I certify that I am an officer of the above-named contributor, that I have examined this report and to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named contributor.

15	Signature	
16	Printed name of officer	
17	Position with contributor	
18	Date	

19 Year of data in Block 4 ☐

Filing Period (Check one)

- ☐ Due by September 1 — Data for current year, January 1 through June 30
- ☐ Due by March 31 — Data for prior year, January 1 through December 31

20 This filing is: ☐ Original filing ☐ Revised filing

Do not include a check with this filing. For additional information, please call the Universal Service Administrator. Mail this Worksheet to the Universal Service Administrator, not to the FCC. The Administrator's address and telephone number are available on the FCC's website.

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001.

DRAFT

FCC Form 457

Universal Service Worksheet

Please read instructions before completing. Report actual amounts billed to customers and contributors during the filing period without subtracting uncollectibles or international settlement payments. Report revenues in whole dollars. Do not report negative amounts.

Block 4: Contributor Revenue Information

21	Year of data	Filing Period (Check one) ☐ Data for January 1 through June 30 ☐ Data for January 1 through December 31	Total Revenues (a)	Percent Interstate & International (b)	Interstate and International Revenues (c)
Revenue from Other Contributors					
Fixed local service					
22	Monthly service, local calling, connection charges, vertical features, inside wiring maintenance, and other local exchange service				
a	Provided as unbundled network elements				
b	Provided under tariffs or arrangements other than unbundled network elements				
23	Per minute charges for originating or terminating calls				
a	Provided as unbundled network elements or other contract arrangement				
b	Provided under state or federal access tariffs				
24	Local private line & special access				
25	Pay telephone compensation from toll contributors				
26	Other local telecommunications service revenues				
27	Universal service support revenues				
Mobile service *(includes wireless telephony, paging & messaging, and other mobile services)*					
28	Monthly, activation, and message charges except toll				
Toll Service					
29	Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.)				
30	Other switched toll service (includes MTS, 800/888 service, etc.)				
31	Long distance private line services				
32	Satellite services				
33	All other long distance services				
Revenue From All Other Sources					
Fixed local service					
34	Monthly service, local calling, connection charges, vertical features, inside wiring maintenance, and other local exchange service charges except for federally tariffed subscriber line charges				
35	Tariffed subscriber line charges				
36	Local private line and special access service				
37	Pay telephone coin revenues				
38	Other local telecommunications service revenues				
Mobile service *(includes wireless telephony, paging & messaging, and other mobile services)*					
39	Monthly and activation charges				
40	Message charges including roaming but excluding toll charges				
Toll service					
41	Pre-paid calling card				
42	International calls that both originate and terminate in foreign points				
43	Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.) other than revenues reported on Line 42				
44	Other switched toll service (includes MTS, 800/888 service, etc.)				
45	Long distance private line services				
46	Satellite services				
47	All other long distance services				
Other revenue that will not be included in the contribution base					
48	Enhanced services, billing and collection, customer premises equipment, published directory, and non-telecommunications products and service revenues				
49	Gross billed revenues from all sources				

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE,18 U.S.C. §1001.

BACK OF FORM

NOTICE TO INDIVIDUALS: Sections 54.703 and 54.713 of the Federal Communications Commission's rules requires all telecommunications carriers providing interstate telecommunications services, providers of interstate telecommunications that offer interstate telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators to contribute to universal service and file this Universal Service Worksheet (FCC Form 457) with the Universal Service Administrator. 47 C.F.R. §§ 54.703, 54.713. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data in the Worksheet will be used to calculate contributions to the universal service support mechanisms. 47 C.F.R. § 54.709.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The foregoing Notice is required by the Privacy Act of 1974, Pub. L. No. 93-579, December 31, 1974, 5 U.S.C. § 552, and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, *et seq.*

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Records Management Branch, Washington, D.C. 20554.

Until the permanent Administrator is ready to begin operations, this form should be submitted to:

USAC -- Universal Service Administration
100 South Jefferson Rd.
Whippany, NJ 07981

When the permanent Administrator is ready to begin operations, its name and address will be available on the Commission's website (www.fcc.gov).

FCC 457
July 1997

Appendix A

Universal Service Worksheet FCC Form 457

Estimated Average Burden Hours Per Response: 5 hours.

Instructions for Completing the Worksheet for Filing Contributions to the Universal Service Support Mechanisms.

NOTICE TO INDIVIDUALS

Section 54.703 of the Commission's rules requires all telecommunications carriers providing interstate telecommunications services, providers of interstate telecommunications that offer services to others for a fee, and pay telephone aggregators to contribute to the universal service support mechanisms. Section 54.711 of the Commission's rules requires all contributors to complete and submit this Worksheet on a semi-annual basis. The collection of information and fees stems from the Commission's authority under the Communications Act of 1934, as amended, Sections 4 and 254, 47 U.S.C. §§ 154 and 254. The data in this Worksheet will be used to ensure that subject entities make equitable and nondiscriminatory contributions to preserve and advance universal service. Selected information provided in the Worksheet will be made available to the public in a manner consistent with the Commission's rules. Except for contributors qualifying for the *de minimis* exemption discussed below, all carriers providing interstate telecommunications services, as well as non-carrier entities that offer interstate telecommunications to others for a fee and pay telephone aggregators, must file this Worksheet.

The foregoing Notice is required by the Privacy Act of 1974, P.L. 93.579, December 31, 1974, 5 U.S.C. § 552(a)(e)(3), and the Paperwork Reduction Act of 1995, P.L. 96-511, Section 3504(c)(3). An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Public reporting burden for this collection of information is estimated to average 5 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden, to the Federal Communications Commission, Records Management Branch, Washington, D.C. 20554.

I. Introduction.

On May 8, 1997, the Commission released rules that require all telecommunications carriers that provide interstate telecommunications services, providers of interstate telecommunications that offer services to others for a fee, and pay telephone aggregators to contribute to the universal service support mechanisms based on their proportionate share of end-user telecommunications revenues.[1] On July 17, 1997, the Commission released rules directing contributors to submit information on a Universal Service Worksheet.[2] Section 54.711(a) provides as follows:

> Contributions shall be calculated and filed in accordance with the Universal Service Worksheet. The Universal Service Worksheet sets forth information that the contributor must submit to the Administrator on a semi-annual basis. . . .[3]

II. Filing Requirements and General Instructions.

A. Who must file.

All telecommunications carriers providing interstate telecommunications services within the United States, with very limited exceptions, must file an FCC Form 457 Universal Service Worksheet. For this purpose, the United States is defined as the contiguous United States, Alaska, Hawaii, American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, the Northern Mariana Islands, Palmyra, Puerto Rico, the U.S. Virgin Islands, and Wake Island.

For the purpose of calculating contributions, the term "interstate telecommunications" includes, but is not limited to, the interstate portion of the following types of services: cellular telephone and paging services; mobile radio services; operator services; personal communications services (PCS); access to interexchange services; special access; wide area telecommunications services (WATS); toll-free services; 900 services; message telephone services (MTS); private line services; telex; telegraph; video services; satellite services; and resale services. Note that all local exchange carriers provide interstate access services and, therefore, provide interstate telecommunications. Entities are subject to the universal service contribution requirement if they offer interstate telecommunications for a fee to the public even if only a narrow or limited class of users could utilize the services. Included are entities that provide interstate telecommunications to entities other than themselves for a fee

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[1] Federal-State Joint Board on Universal Service, *Report and Order*, FCC 97-157, CC Docket 96-45, (rel. May 8, 1997).

[2] Changes to the Board of Directors of the National Exchange Carrier Association, *Report and Order*, FCC 97-, CC Dockets 97-21 and 96-45 (rel. June , 1997).

[3] 47. C.F.R. § 54.711(a).