

for the sale of an exchange will be based on market forces and will not be influenced because of the additional universal service subsidies the purchaser would otherwise receive. What the rule does is “eliminate . . . the current incentives for large LECs to sell high cost exchanges to smaller LECs” because a rural incumbent is willing to pay a higher purchase price as a result of the prospect of receiving additional assistance.⁶⁴ Simply put, the rule prevents the large incumbent seller from receiving windfall profits which, absent the rule, would be funded by competitive carriers (and their customers). Such a temporary rule is hardly “unreasonable or unlawful.”

3. *Continued Application of Indexed Cap.* Several years ago, to address explosive and erratic growth of the universal service fund, the Commission imposed a limit on the amount the size of the fund could grow each year.⁶⁵ The Commission has now decided to maintain this cap, noting that it “will encourage carriers to operate more efficiently,” “will prevent excessive growth in the size of the fund,” and will make more manageable the transition for forward-looking support mechanisms.⁶⁶

Not surprisingly, rural incumbents oppose a continuation of the cap, arguing that a capped fund “will not ensure continued recovery of existing and increasing costs to provide universal service at affordable rates.”⁶⁷ The Commission should reject

⁶⁴ *Amendment of Part 36*, 9 FCC Rcd at 7410 n.14.

⁶⁵ *See Universal Service Order* n.776, citing prior decisions.

⁶⁶ *Universal Service Order* ¶ 302.

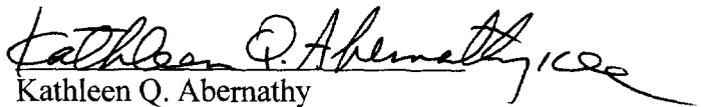
⁶⁷ Alaska Ass’n Petition at 3; RTC Petition at 18-20; USTA Petition at 16-17; Western Petition at 11-12.

CONCLUSION

For the reasons discussed above, AirTouch respectfully requests that the petitions for reconsideration opposed herein be denied.

Respectfully submitted,

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August 18, 1997

CERTIFICATE OF SERVICE

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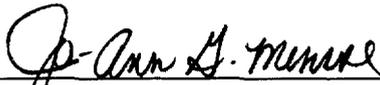
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