BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Forward-Looking Mechanism for High Cost Support for Non-Rural LECs	)	CC Docket No. 97-160

COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

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TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. A COMPETITIVELY NEUTRAL LOCAL USAGE COMPONENT OF THE COST PROXY MODELS WOULD MEET CONGRESS' AND THE COMMISSION'S OBJECTIVES TO PROVIDE NECESSARY AND AFFORDABLE TELECOMMUNICATIONS SERVICES THROUGHOUT THE NATION. 2

III. THE COMMISSION SHOULD PROMOTE THE COMPETITIVE PROVISION OF SERVICE BY SECURING SEAMLESS TRANSFERABILITY OF UNIVERSAL SERVICE SUPPORTS. 6

IV. CONCLUSION 8

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COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

The Cellular Telecommunications Industry Association ("CTIA")[1] submits its Comments in the above-captioned proceeding.[2] CTIA addresses the Commission's request for further comment on the local usage component of the cost proxy models for universal service.

I. INTRODUCTION

In the Notice the Commission has requested comment on various elements of its proposed cost proxy models for universal service. CTIA agrees with the Commission's tentative conclusion

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1 CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers, including 48 of the 50 largest cellular and broadband personal communications service ("PCS") providers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

2 Federal-State Joint Board on Universal Service; Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, Further Notice of Proposed Rulemaking in CC Docket Nos. 96-45, 97-160, FCC 97-256 (rel. July 18, 1997) ("Notice").

that a local usage element, if properly configured, would facilitate comparisons of carriers with different ratios of fixed to variable costs. The Commission's efforts to adopt a local usage requirement, however, must not be based on the wireline model of unlimited local usage. Principles of competitive neutrality counsel against adopting an excessive requirement because it could serve as a barrier to the participation of competing service providers. The Commission should be guided by the notion that the local usage requirement will be the minimum amount of time necessary to satisfy the goals of Section 254. In those areas where competition exists, a local usage requirement is not needed because consumers, through market choices, will ultimately decide the value of the service that best meets their needs by selecting the carrier that offers the most attractive service at the most attractive price. In addition, the Commission should facilitate consumer choice by securing seamless portability of the universal service subsidy between carriers who service the customer's primary line.

II. A COMPETITIVELY NEUTRAL LOCAL USAGE COMPONENT OF THE COST PROXY MODELS WOULD MEET CONGRESS' AND THE COMMISSION'S OBJECTIVES TO PROVIDE NECESSARY AND AFFORDABLE TELECOMMUNICATIONS SERVICES THROUGHOUT THE NATION.

The Commission tentatively concludes that a local usage component should be required to guarantee consumers in high cost areas the full benefit of the universal service program. CTIA supports the Commission's decision that access alone, without a service component, would not necessarily deliver all of the benefits of the Commission's universal service policy. Notably, the Commission has distinguished wireline carriers from wireless

service providers. Under current conditions, wireless carriers have lower access costs, but higher variable, or usage-based costs than the typical wireline company.[3]

While it is not certain that new technologies or increased competition among equipment vendors will alter existing costs and therefore price structures for wireless telecommunications services, the Commission should ensure that its final determination with regard to the local usage requirement does not negatively affect future local service competition by discriminating against wireless carriers. To realize truly competitive telecommunications service offerings under its universal service rules, the Commission must adopt a local usage figure that reflects realistic usage levels of primary telecommunications lines. An inordinately high figure that distorts competitive alternatives by eliminating more traffic-sensitive service providers would not efficiently allocate universal service resources and would breach the ideals of neutrality established in the Universal Service Order by favoring wireline carriers.[4] Thus, by way of example, principles of competitive neutrality require that the Commission not adopt a value based on some ILEC service offerings by installing an

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[3] Notice at ¶ 177.

[4] Federal-State Joint Board on Universal Service, Report and Order in CC Docket No. 96-45, FCC 97-157 at ¶ 46 (released May 8, 1997) ("Universal Service Order") ("Pursuant to Section 254(b)(7) and consistent with the Joint Board's recommendation, we establish 'competitive neutrality' as an additional principle upon which we base policies for the preservation and advancement of universal service.")

unlimited usage requirement. A model predicated on extremely high usage contains an artificial bias toward carriers with relatively low variable costs. It would disqualify many carriers simply as an artifact of the model's specification.

Determining local usage requirements based upon assumptions of unlimited access would not satisfy the terms of Section 254(c). In the Universal Service Order, the Commission adopted a core of necessary services that are to be supported which did not include unlimited usage.[5] The Commission concluded that access to these core telecommunications services alone satisfies the criteria of Section 254(c)(1).[6] Under Section 254 the Commission may determine which services to support based on whether the services: (1) are essential to education, public health, or public safety; (2) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers; (3) are being deployed in public telecommunications networks by telecommunications carriers; and (4) are consistent with the public interest, convenience, and necessity.[7] Unlimited usage at a subsidized rate is not what Congress intended. Because it is not a necessary or core service which would satisfy the criteria of Section 254(c), a Commission mandate that all eligible carriers provide unlimited local usage would lead to an unreasonable bias in favor of wireline carriers.

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5 Universal Service Order at ¶¶ 56-87.

6 47 U.S.C. § 254(c)(1).

7 Id.

The Commission should also note that its concern over local usage is significantly less important in a competitive universal service environment. The Commission's inquiry into minimum local usage is premised on its belief that "[c]arriers [which are] able to provide relatively inexpensive access could underbid competitors, yet customers might not receive affordable service because of high usage-based charges." However, this possibility is irrelevant in a competitive market. If consumers find a service too expensive, they will simply switch to a more affordable carrier. In other words, if a wireless provider has higher overall prices at the consumer's desired level of service than a competing wireline company, it will lose the customer. Thus, the Commission should aim to foster a competitive environment by ensuring fair access by all carriers and competitive neutrality within its rules. When the competitive offering of service is realized, a local usage requirement is not needed to protect consumers and could result in thwarting consumer preference.

A wireline carrier's lower variable costs and a wireless carrier's lower access costs are, in large part, a function of their respective technologies. Advances in wireless technologies promise a reduction in the costs of service as more efficient means of utilizing spectrum are developed. The Commission would advance the notion of competitive and technological neutrality by adopting a local usage figure that does not impair the availability of wireless options for consumers. The adoption of a local usage requirement is a legitimate and reasonable means to

achieve the Commission's and Congress' social objectives for universal service. However, the Commission must not allow this figure to be used as a means of circumventing the principle of competitive neutrality by disqualifying one technology with higher variable costs in favor of another with higher fixed costs.

III. THE COMMISSION SHOULD PROMOTE THE COMPETITIVE PROVISION OF SERVICE BY SECURING SEAMLESS TRANSFERABILITY OF UNIVERSAL SERVICE SUPPORTS.

Upon determination of a valid local usage requirement, the Commission must preserve the principles of competitive neutrality by guaranteeing transferability of the universal service subsidy to any carrier providing primary line service. In the Universal Service Order the Commission correctly determined that the principle of competitive neutrality is embodied within Section 254, as well as throughout the Telecommunications Act of 1996.[8] In exchange for the newly imposed obligation to contribute to the Commission's universal service program, the Commission concluded that CMRS providers that meet the requirements of the Act will be eligible to receive funding for providing supported services. The determination that CMRS providers are eligible to receive universal service funding must be followed by steps which guarantee the seamless transferability of the supports from one primary carrier to another.

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8 Universal Service Order at ¶¶ 46-55. The Commission also concluded that competitive neutrality should include the principle of technological neutrality.

The purpose of the Commission's present inquiry is to include a local usage component "in the definition of universal service to ensure that customers realize the benefits of universal service. . . ."[9] As the obvious intended beneficiaries of the Commission's universal service policies, consumers' ability to select a carrier must be protected by the Commission. The Commission recognized as much in the Universal Service Order when it concluded that "[i]n order not to discourage competition in high cost areas, we adopt the Joint Board's recommendation to make carriers' support payments portable to other eligible telecommunications carriers . . . "[10] In instances where there is more than one eligible universal service provider, consumers will have the option of selecting a carrier which best suits their needs. Whether consumers choose a wireline or wireless service provider, seamless transferability of the universal service support will protect competition, ensure efficient provision of service, and satisfy consumer demand in all regions of the nation.

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[9] Notice at ¶ 178.

[10] Universal Service Order at ¶ 287; see also ¶ 311.

IV. CONCLUSION

For these reasons CTIA respectfully requests that the Commission adopt a competitively neutral local usage element in the cost proxy model.

Respectfully submitted,

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