

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Federal-State Joint Board on ) CC Docket No. 96-45  
Universal Service ) (Report to Congress)

**REPLY COMMENTS OF U S WEST, INC.  
FOR THE COMMISSION'S REPORT TO CONGRESS**

U S WEST, Inc. ("U S WEST") submits these Reply Comments to assist the Federal Communications Commission ("Commission") in drafting its Report to Congress on the Commission's interpretation and implementation of the provisions of the Telecommunications Act of 1996 ("1996 Act") relating to universal service.<sup>1</sup>

I. INTRODUCTION

U S WEST's Comments and Reply Comments are limited to the fifth issue about which the Commission requested comments:

- (5) the Commission's decisions regarding the percentage of universal service support provided by Federal mechanisms and the revenue base from which such support is derived.<sup>2</sup>

The Commission should advise Congress that it will issue a Notice of Proposed Rulemaking to reconfigure the federal support mechanism for high-cost areas for non-rural local exchange carriers ("LEC"), where currently 25 percent of

<sup>1</sup> Public Notice, Common Carrier Bureau Seeks Comments for Report to Congress on Universal Service Under the Telecommunications Act of 1996, DA 98-2, rel. Jan. 5, 1998 ("Public Notice"). Order extending comment date, DA 98-63, rel. Jan. 14, 1998. Comments were filed herein Jan. 26, 1998.

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List A B C D E

the costs will be funded by the federal mechanism and where the states will be responsible for funding the remaining 75 percent of the costs, because the plan which was adopted by the Commission in the May 8, 1997 Universal Service Order<sup>3</sup> may not result in the degree or kind of support required by Congress under Section 254 of the 1996 Act.

II. THE STATES ARE NOT REQUIRED TO MAKE UP THE DEFICIENCY IN SUPPORT WHICH WILL RESULT UNDER THE COMMISSION'S 25 PERCENT/75 PERCENT PLAN

The Commission and some of the commenters refer to a “partnership” between the federal government and the states for the support of universal service.<sup>4</sup> When the Commission declined to re-examine its decision to fund only 25 percent of universal service, it said: “[W]e stress the need for federal-state partnership in order to allay any concerns that support amounts will be insufficient.”<sup>5</sup>

A minority of commenters describe the “partnership” as imposing a legal obligation on the states to provide support for universal service to supplement the federal support mechanism. For example, Ameritech says: “[F]rom a legal standpoint, the statute clearly requires separate state and federal mechanism[s] to

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<sup>2</sup> Public Notice at 2.

<sup>3</sup> In the Matter of Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd. 8776 (1997) (“Universal Service Order”); appeals pending sub noms. Texas Office of Public Utility Counsel, et al. v. FCC, 97-60421 (5th Cir.); on recon., 12 FCC Rcd. 10095 (1997) (“Order on Reconsideration”).

<sup>4</sup> Universal Service Order at 9194-95 ¶ 818; Order On Reconsideration at 10107-108 ¶ 28. And see Bell Atlantic Telephone Companies (“Bell Atlantic”) at 4.

<sup>5</sup> Order On Reconsideration ¶ 28.

deal with universal service.”<sup>6</sup> However, others recognize, correctly, that the statute is permissive because it provides that the states “may” adopt their own support mechanisms for universal service. Bell Atlantic says: “[T]he Act preserves the existing universal service partnership, under which a federal fund provides support from interstate revenues to maintain and support the designated universal services, while the states may use revenues from intrastate services to continue to provide further support to such services as needed.”<sup>7</sup>

Other commenters suggest that the states may have an economic interest, but not a legal duty, to support universal service and they express an interest in working collaboratively with the Commission to address the issue.<sup>8</sup> Others say that the definition of universal service in the Federal-State Joint Board’s Recommended Decision is a federal definition of universal service, that support will be based upon providing this level of service, and that this level of service must, therefore, be supported by the federal support mechanism alone without participation by the states.<sup>9</sup>

U S WEST agrees with those commenters who say that the states have the option, but not the legal obligation, to supplement the federal support mechanisms.

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<sup>6</sup> Ameritech at 4 (emphasis added).

<sup>7</sup> Bell Atlantic at 4 (emphasis added).

<sup>8</sup> See Washington Utilities and Transportation Commission (“Washington UTC”) at 14; Colorado Public Utilities Commission (“Colorado PUC”) at 4; Public Utility Commission of Texas (“Texas PUC”) at 4; Nebraska Public Service Commission (“Nebraska PSC”) at 3.

<sup>9</sup> South Dakota Public Utilities Commission (“South Dakota PUC”) at 2; GTE Service Corporation (“GTE”) at 27-28.

The statute clearly says that states “may” adopt additional increments to the federal program.<sup>10</sup> Such state programs may “provide for additional definitions and standards” only if states also “adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.”<sup>11</sup> However, it is plain from the statute that states are not required to supplement the federal support mechanism put in place by the Commission.

**III. RURAL, LOW-DENSITY STATES ARE UNABLE TO PROVIDE SUPPORT FOR UNIVERSAL SERVICE WITHOUT PUTTING PRESSURE ON LOCAL RATES WHICH WILL RESULT IN UNAFFORDABLE SERVICE**

Many states lack the means and the population base to fund 75 percent of the costs of universal service in high-cost areas in their state and they generally object to the Commission’s 25 percent/75 percent plan for that reason. The comments by LECs, state commissions and state elected officials, and interexchange carriers (“IXC”) in this proceeding about the 25 percent/75 percent plan also reflect the urban/rural split. The preponderance of the comments filed in this matter oppose the 25/75 plan:

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<sup>10</sup> 47 U.S.C. § 254(f).

<sup>11</sup> Id.

Commenter	Support the 25/75 plan	Oppose the 25/75 plan	No Opinion
LECs & LEC carrier associations	2 <sup>12</sup>	8 <sup>13</sup>	1 <sup>14</sup>
States	0	25 <sup>15</sup>	2 <sup>16</sup>
IXCs	0	1 <sup>17</sup>	3 <sup>18</sup>

Even though some commenters, such as Bell Atlantic and Ameritech, object to the notion that revenues earned by LECs in densely populated urban areas must be used to subsidize service in rural and other high-cost and remote regions,<sup>19</sup> it is clear that costs are driven principally by density and distance. For example, U S WEST's 14-state region has an average of 40 customers per square mile, compared to several other Bell Operating Companies which have an average of 250 customers per square mile.

<sup>12</sup> Bell Atlantic at 1-2; Ameritech at 4.

<sup>13</sup> U S WEST Comments at 3-4, 8; BellSouth Corporation ("BellSouth") at 9-10; GTE at 30-31; Aliant Communications Co. at 3-4; Nebraska Telephone Association at 1; Puerto Rico Telephone Company at 8-11; Beehive Telephone Companies at 3-4; United States Telephone Association ("USTA") at 7-8.

<sup>14</sup> SBC Communications Inc. at 5-6.

<sup>15</sup> Joint comments of Alabama, Alaska, Arkansas, Georgia, Idaho, Kentucky, Maine, Montana, New Hampshire, New Mexico, North Carolina, South Carolina, Vermont and West Virginia State Regulatory Agencies ("Alabama, et al.") at 2-3; State of Alaska ("Alaska") at iii, 11-15; Colorado PUC at 2-4, Iowa Utilities Board at 2, Kansas Corporation Commission at 1-2; Nebraska PSC at 2-3; Public Service Commission of North Dakota, South Dakota PUC at 2; Texas PUC at 3-4; State of Utah at 1-2; Washington UTC at 2, 11-13; Public Service Commission of Wisconsin at 3-5; Wyoming Public Service Commission ("Wyoming PSC") at 1-5.

<sup>16</sup> See Pennsylvania Public Utility Commission; Public Utilities Commission of Nevada.

<sup>17</sup> Sprint Corporation at 4-5.

<sup>18</sup> See AT&T Corp.; MCI Telecommunications Corporation; WorldCom, Inc.

The following comparison illustrates the disparity in the distribution of population within a predominantly rural state and within urban states. In rural states such as North Dakota, low-density population concentrations exceed high-density population concentrations. In urban areas such as New Jersey or the District of Columbia, the reverse is true. Under the Commission's 25 percent/75 percent plan where the state must provide 75 percent of the high-cost support, a state such as North Dakota does not have the ability to shift the burden for funding intrastate high-cost services to customers in high-density areas in the state. Conversely, commissions in New Jersey and the District of Columbia do possess that ability.

**Low-Cost to High-Cost Line Comparison**

Area	Low-Cost Lines <sup>20</sup>	High-Cost Lines <sup>21</sup>	Low-Cost to High-Cost Line Comparison	Total Lines
Washington D.C.	677,000	0	677,000 to 0	677,000
New Jersey	5,139,000	788,000	6.5 to 1	5,927,000
North Dakota	228,000	220,000	1.1 to 1	428,000

Source Benchmark Cost Proxy Model 3.0 ("BCPM")

This comparison reveals the following: (1) Low-cost lines in the District of Columbia do not have any high-cost line to support; (2) A high-cost line in New Jersey has 6.52 low-cost lines to support it; and (3) A high-cost line in North Dakota has 1.1 low-cost lines to support it.

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<sup>19</sup> Bell Atlantic at 8-9; Ameritech at 4-5.

<sup>20</sup> High-cost lines are defined as lines in density groups of 650 lines or less per square mile. These density groups have monthly average costs of more than \$29.00 per month (Source BCPM 3.0).

<sup>21</sup> Low-cost lines are defined as lines in density groups of 650 lines or more per square mile. These density groups have monthly average costs of less than \$29.00 per month (Source BCPM 3.0).

The Washington UTC correctly analyzes the impact of the Commission's 25 percent/75 percent plan on rural states where the costs to provide service are high:

We submit that because costs vary along urban/rural lines and this implies a deaveraged support delivery (payment) system does not mean that the mechanism to generate funding should also be deaveraged. However, the FCC's current proposal to split the universal service burden 25 percent to the Federal jurisdiction, and 75 percent to the State jurisdiction accomplishes just that – it deaverages the collection of support, loading the largest requirement for revenue generation on the highest cost states. If those states also lack large populations from which to draw funding support, then unaffordably high rates may be the outcome.<sup>22</sup>

BellSouth agrees with those commenters who object to the 25 percent/75 percent plan: "It is inadequate and inappropriate to shift the entire burden of universal service to the states. To do so will put significant upward pressure on the basic telephone rates of consumers in rural, high-cost areas--a result that is hardly compatible with the framework of Section 254."<sup>23</sup>

USTA also agrees: "[T]he Commission's approach, which leaves the bulk of support for the states to provide, will create an extreme hardship in rural states which do not have the resources to fund over 75 percent of the costs of providing universal service in rural areas."<sup>24</sup>

The Commission's interstate fund will cover only 25 percent of the cost of universal service in high-cost areas. As a result, the Commission's fund leaves the

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<sup>22</sup> Washington UTC at 7.

<sup>23</sup> BellSouth at 10. See also, GTE at 28; New Mexico Attorney General at 2; Alaska at 13; Mississippi Public Service Commission at 2; Wyoming PSC at 2; Alabama, et al. at 3-4.

<sup>24</sup> USTA at 8.

customers in predominantly high-cost rural states without an explicit mechanism to ensure affordability of service. Accordingly, customers in low-cost, high-density states should provide support for customers in high-cost, low-density states such as Alaska, Montana, Wyoming, South Dakota, Mississippi, and Alabama.

The Commission should implement a national unified fund funded by assessments on interstate and intrastate end-user revenues so that the cost for providing universal service in high-cost, low-density areas and states can be approached on a national basis.

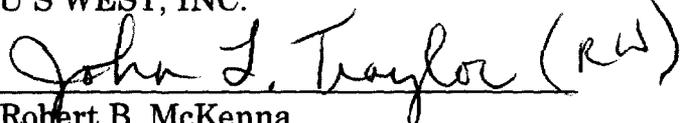
#### IV. CONCLUSION

Because the Commission's 25 percent/75 percent plan will impose an unreasonable burden on rural states to fund high-cost support, the Commission should advise Congress that it will re-examine the matter and will adopt a national unified fund where funds from high-density urban states will be available for high-cost support in low-density rural states.

Respectfully submitted,

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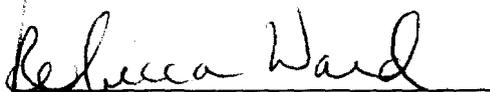
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I, Rebecca Ward, do hereby certify that on this 6<sup>th</sup> day of February, 1998, I have caused a copy of the foregoing **REPLY COMMENTS OF U S WEST, INC. FOR THE COMMISSION'S REPORT TO CONGRESS** to be served, via first class United States Mail, postage pre-paid, upon the persons listed on the attached service list.

  
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