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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

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

REPLY COMMENTS OF THE ASSOCIATION FOR
LOCAL TELECOMMUNICATIONS SERVICES

The Association for Local Telecommunications Services ("ALTS"), pursuant to Public Notice DA 98-2, released January 5, 1998, hereby submits Reply Comments on the Commission's implementation of the universal service provisions of the Telecommunications Act of 1996 and the report that the Commission must make to Congress with respect thereto.

ALTS submits these comments in support of the concerns expressed by the State members of the Federal-State Universal Service Joint Board and the Missouri Public Service Commission relating to the Commission's conclusion that the statute requires carriers to have been granted "eligible telecommunications carrier" status pursuant to Section 214 in order to receive universal service support for services provided to rural health care providers. To the extent that the Commission believes that it cannot, consistent with the plain language of the statute, allow all carriers to receive such support, the Commission should request that Congress adopt technical amendments to the Act.

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Any telecommunications carrier, not just those that have been granted "eligible telecommunications carrier" status, are eligible for support under the schools and libraries fund.[1] There is no reason why carriers providing service to rural health care providers should not be treated in the same manner as those that provide service to schools and libraries. Schools, libraries, and rural health care providers are individual entities to whom Congress has decided to endow a special benefit in order to enhance the specific public interests (education and health) that they support. Because of this, the requirements for carriers providing service to schools, libraries and rural health care providers are similar under the Act, with the exception of the treatment of the carriers eligible to provide supported service.

On the other hand, universal service support to rural and high cost areas is general support for an area (not a specific entity) reflecting an area's specific cost characteristics. The requirements relating to designation as an "eligible telecommunications carrier" make eminently more sense in the context of universal service support for these areas, than for support for individual entities like schools and rural health care providers. For example, the Section 214(e) requirement that a carrier offer services that are supported by the universal

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[1] 47 U.S.C § 254(h)(1)(B)(ii); In the Matter of Federal-State Joint Board on Universal Service, CC Dkt 96-45, FCC 97-157 (rel. May 8, 1997) (First Report and Order) at para. 449.

service support mechanisms throughout the service area for which the designation is received was adopted in response to concerns expressed by small and rural carriers in the high cost areas that new entrants might seek to target only the larger customers in an area, thereby causing small and rural carriers to be unfairly disadvantaged.[2]

The same concerns that led Congress to adopt a number of special provisions relating to rural and small carriers do not arise, however, with respect to service to schools, libraries or rural health care providers. Congress explicitly provided that a carrier could receive compensation from the schools and libraries fund even if the carrier had not obtained an "eligible telecommunications carrier" designation so that the schools and libraries could receive the best price and best service regardless of the carrier providing service. The reason for the exemption for carriers proving service to schools and libraries applies equally to carriers providing service to rural health care providers. ALTS knows of no legislative history that would support different treatment for schools and libraries and rural health care providers.

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[2] There are many sections of the Telecommunications Act that exempt carriers in rural areas from some of the requirements placed on other, larger, carriers or otherwise seek to allow such carriers to additional time to adapt to the competitive environment sought under the Act. For example, Section 251(f)(1) exempts certain rural telephone companies from some of the interconnection requirements otherwise imposed on incumbents until a State Commission determines that those requirements will not be "unduly economically burdensome" on the rural carrier.

As noted in the comments of the Missouri Public Service Commission, if the rural health care providers do not have the option of obtaining service from non-"eligible telecommunications service providers" in many of the rural areas, health care providers choices will be limited to one carrier, and "the bidding process would not accomplish the purpose for which it was meant -- to find the carrier who can provide health care services at the lowest possible cost with the maximum amount of service options." [3]

[3] Comments of the Missouri Public Service Commission at 2.

CONCLUSION

For the foregoing reasons, the Commission should either adopt the interpretation of the 1996 Act proposed here, or else ask Congress to adopt a technical amendment to the effect that carriers providing service to rural health care providers, like carriers providing service to schools and libraries, need not be "eligible telecommunications carriers" within the meaning of Section 214 in order to receive funds from the rural health care program.

Respectfully submitted,

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February 6, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of February, 1998, copies of the foregoing Comments of the Association for Local Telecommunications Services were served via first class mail, postage prepaid, or by hand as indicated to the parties listed below.

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