

Before the
Federal Communications Commission
Washington, D.C. 20554

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MAR 25 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. <u>96-45</u>
)	
Access Charge Reform, Price Cap Performance)	CC Docket Nos. 96-262, 94-1,
Review for Local Exchange Carriers, Transport)	91-213, 95-72
Rate Structure and Pricing, End User Common)	
Line Charge)	

**UNITED STATES TELEPHONE ASSOCIATION
OPPOSITION TO PETITIONS FOR RECONSIDERATION**

The United States Telephone Association (USTA) respectfully submits its opposition to several of the petitions for reconsideration which were filed February 12, 1998 in the above referenced proceeding. USTA is the principal trade association of the local exchange carrier (LEC) industry. Its members provide over 95 percent of the incumbent LEC-provided access lines in the U.S. USTA has participated in this proceeding on behalf of its member companies since its inception as incumbent LECs traditionally have provided universal service at affordable rates throughout the nation.

USTA opposes the petitions filed by the Washington Utilities and Transportation Commission (WUTC), the North Dakota Public Service Commission (NDPSC), and the South Dakota Public Utilities Commission (SDPUC) to increase the bandwidth definition for voice grade service. USTA also opposes the petition filed by the Southern Educational Communications Association (SECA) requesting that all wide area networks (WANs) be eligible

for universal service discounts. Finally, USTA opposes the petition filed by the Washington State Department of Information Services (DIS) to permit state networks to receive universal service support under the schools and libraries program. The Commission should reject these petitions and adhere to the decisions it made on these issues in the Fourth Order on Reconsideration.¹

I. PETITIONERS' REQUEST TO ALTER THE BANDWIDTH FOR VOICE GRADE SERVICE IS INCONSISTENT WITH INDUSTRY STANDARDS AND COULD RESULT IN THE LOSS OF UNIVERSAL SERVICE SUPPORT TO THE DETRIMENT OF RATEPAYERS.

On its own motion in the Fourth Order on Reconsideration, the Commission modified the specification of bandwidth for voice grade access to the public switched telephone network and concluded that bandwidth should be, at a minimum, 300 Hertz to 3,000 Hertz.² As the Commission explains, this modification was necessary to bring the definition within current industry standards. In addition, the bandwidth as originally adopted did not meet the criteria contained in Section 254(c)(1). Without this change virtually all telephone companies would have been ineligible to receive universal service support because they do not currently provide voice grade access at the bandwidth originally adopted.

Surely none of the petitioners intend such a result which could have a disastrous impact on rural ratepayers. In fact, petitioners' concerns appear to stem from their desire to encourage the deployment of advanced services in rural areas. This is a goal which USTA and Congress

¹Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Fourth Order on Reconsideration*, FCC 97-420, rel. Dec. 30, 1997.

²Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157, 12 FCC Rcd 8776 (rel. May 8, 1997) at ¶ 16.

strongly share; and, the Act contains specific provisions to address that goal. First, Section 254(c)(2) gives the Joint Board the authority to recommend modifications to the definition, since Congress recognized that the definition of universal service would evolve based on the criteria contained in Section 254(c)(1). Certainly when the Joint Board addresses this issue in the future it could further investigate the appropriate bandwidth and make a recommendation which encourages deployment of advanced services *without* resulting in the elimination of universal service support for the vast majority of telephone companies.

In addition, Section 706 gives the states and the Commission the authority to eliminate barriers to the deployment of advanced services and requires the Commission to initiate a Notice of Inquiry if advanced services are not being deployed. This also provides an opportunity for petitioners to achieve their goal.

Finally, changing the bandwidth now, after the deadline for eligibility has passed, will raise new concerns regarding the status of the all of the carriers who were certified as eligible under the bandwidth adopted in the Order on Reconsideration. The technical specifications related to bandwidth of voice grade access should be determined by industry standards bodies. USTA strongly urges the Commission to reject these petitions and to encourage the petitioners to address their issue regarding encouraging deployment of advanced services in rural areas through the other means provided in the Act. This will ensure that current universal service support for all currently eligible carriers will continue. However, if the Commission determines that it must grant these petitions, USTA recommends that it do so on a prospective basis only so that carriers which have already been so designated do not lose their eligibility and their customers do not lose access to universal service. At the very least, if the Commission determines that it must

accept these petitions, it should permit carriers to seek a waiver of the bandwidth requirement as is currently permitted for certain components of the universal service definition, i.e., access to 911 and E911, single party service and toll limitation.

II. PETITIONER'S REQUEST THAT ALL WANS BE ELIGIBLE FOR DISCOUNT UNDER THE SCHOOLS AND LIBRARIES MECHANISM IS INCONSISTENT WITH THE ACT AND SHOULD BE DENIED.

On its own motion, the Commission also determined in the Fourth Order on Reconsideration that costs incurred by states, schools, or libraries to build or purchase WANs to provide telecommunications will not be eligible for universal service discounts.³ This determination, as explained by the Commission, is required by the Act. WANs purchased or provided by states, schools or libraries do not meet either the definition of telecommunications contained in Section 3 (43) or the definition of telecommunications service contained in Section 3 (46) and neither states, schools nor libraries meet the definition of telecommunications carrier under Section 3 (44). Under Section 254(h)(1)(B) only telecommunications services provided by telecommunications carriers qualify for discount. The Commission has no authority to grant the petition.⁴

Contrary to the assertions of SECA, qualifying such WANs for discount would not be in the public interest and would violate the principle of competitive neutrality. Such a result would expand the scope of services which must be provided beyond that which was intended by

³Fourth Order on Reconsideration at ¶ 193.

⁴Although USTA argued that the Commission exceeded its authority by permitting internal connections and Internet access to be considered as telecommunications services, WANs do not fit under either of those exceptions.

Congress and would allow entities to receive discounts which are not required to contribute to the universal service fund. A non-telecommunications carrier that provides WAN capability and receives a discount escapes the universal service contribution required of telecommunications carriers and will avoid these costs which telecommunications carriers must incur. Congress did not intend such a result. USTA urges the Commission to deny the petition.

III. PETITIONER'S REQUEST THAT STATE TELECOMMUNICATIONS NETWORKS RECEIVE UNIVERSAL SERVICE SUPPORT IS INCONSISTENT WITH THE ACT AND SHOULD BE REJECTED.

In the Fourth Order on Reconsideration, the Commission correctly explained that state telecommunications networks do not meet the definition of telecommunications carrier which requires provision of telecommunications service on a common carrier basis.⁵ Pursuant to Section 254(h)(1)(A) and (B) only telecommunications carriers are permitted to receive universal service support. DIS is not a telecommunications carrier and the Commission has no authority to permit it to receive support. Therefore, this petition must be rejected.

⁵Fourth Order on Reconsideration at ¶ 187.

IV. CONCLUSION.

As explained above, petitioners' requests are inconsistent with the clear wording as well as the clear intent of the Telecommunications Act of 1996. Grant of any of these petitions would threaten the viability of the universal service fund. USTA urges the Commission to deny these petitions.

Respectfully submitted,

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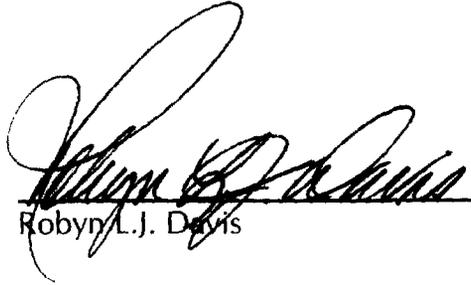
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