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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

COMMENTS OF AMERITECH
ON PETITIONS FOR RECONSIDERATION

Ameritech[1] submits these comments on certain petitions for reconsideration filed with respect to the Commission's Fourth Order on Reconsideration in this proceeding.[2]

I. VOICE GRADE BANDWIDTH.

In the Order, the Commission reconsidered, on its own motion, the minimum bandwidth to be included with voice grade access to the network for universal service support.[3] The Commission concluded that its original specifications of 500Hz to 4,000Hz is more exacting then current industry standards, but that its intentions were not to impose new, more stringent

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[1] Ameritech means: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc.

[2] *In the Matter of Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration, FCC 97-420 (released December 30, 1997) ("Order").

[3] *Id.* at ¶16.

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standards. Therefore, at this time, the Commission decided that supportable voice grade access should occur in the current industry standard frequency range of 300Hz to 3,000Hz.

Three petitioners, the South Dakota Public Utilities Commission, the North Dakota Public Service Commission, and the Washington Utilities and Transportation Commission, requested that the Commission reconsider its decision to modify its original specification. The three commissions believe that the standard should be set at 300Hz to 3,500Hz to support, *inter alia*, Internet access. These petitions should be denied.

The Commission is correct in its finding that the 500-4,000Hz standard could place a significant burden on carriers. It would cost carriers hundreds of millions of dollars to re-engineer their networks. Moreover, the Commission's decision is supported by the language of the statute itself. Specifically, §254(c)(1) states that, in establishing the definition of universal service supported by the Federal mechanisms, the Commission shall consider the extent to which those telecommunications services, *inter alia*,

- have been subscribed to by a substantial majority of residential customers, and
- are being deployed in public telecommunications networks by telecommunications carriers.

Neither of those conditions applies either to the Commission's original standards or the one proposed by petitioners.

Moreover, it would be premature to determine that the standard needed to be increased to serve customers in rural areas or that the deployment of technology to achieve that purpose should be done in the context of, and with the support of, the universal service high cost fund. As noted above, the purpose of establishing a definition of universal service at this time is to ensure access to voice grade telephone service of a type consistent with current customer expectations

and compatible with current industry standards. To mandate more, of course, would result in a substantial burden to the fund and ultimately to ratepayers.

II. NON-CARRIER COMMUNICATIONS SERIVCES.

In the Order, the Commission clarified that state telecommunications networks that procure supported telecommunications services and make them available to schools and libraries may secure discounts on such telecommunications as consortia on behalf of eligible schools and libraries.[4] The Commission also made it clear that such networks are entitled to receive direct reimbursement from federal funds only for providing Internet access and internal connection.[5] The Commission reasoned that direct reimbursement from the support funds for what would amount to "telecommunications service" would not be appropriate since a state network is not a telecommunications carrier.[6] The Commission also concluded that schools that build or purchase their own wide area networks ("WANs") to provide telecommunications will not be entitled to discounts for such purposes since the WANs in that case do not constitute internal connections or telecommunications provided on a common carrier basis.[7]

The Washington State Department of Information Services ("WDIS") -- a state agency authorized by Washington state law to provide telecommunications and information services to public entities in the state of Washington -- asks the Commission to declare "that state networks are eligible to receive discounts for services provided to K-12 schools and public libraries directly

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[4] *Id* at ¶¶183-189.

[5] *Id.* at ¶¶187,190.

[6] *Id.* at ¶187.

[7] *Id* at ¶193.

from the USF based on established rates."[8]

The Southern Educational Communications Association ("SECA") -- a consortium of four local school districts in Missouri -- seeks reconsideration of the Order, either in its entirety, or insofar as it would apply to an instructional television fixed station ("ITFS") licensee and consortia. Finally, Lan Neugent and Greg Weisiger ("Neugent and Weisiger") ask the Commission to permit school purchases of WANs to qualify for discounts. All three petitioners argue that the public interest would be served by expanding schools and libraries fund ("SLF") discounts eligibility for the these non-telecommunications purchases.

The Commission should deny all of these petitions. As the Commission noted, the providers of such services are not "telecommunications carriers" and therefore are not entitled to reimbursement from the fund by the terms of §254(h)(1)(B).[9] The Commission made a limited exception from the carrier requirement for the case of internal connections and Internet access. However, expanding that exception is not called for in this case. Specifically, it appears that Congress' intent in §254 is for a universal service and educational subsidy system in which carriers primarily funded other carriers.

The Commission must be hesitant in expanding those circumstances in which non-carriers -- whether they be state networks or commercial contractors installing WAN facilities -- are entitled to draw from the SLF. The fact is that these entities do not contribute to the fund and therefore should not draw from it. That is especially true for the services rendered in this case. They are the type which, if provided by a carrier, would generate revenues subject to USF

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[8] WDIS petition at 3.

[9] Order at ¶¶87, 193.

assessment. It would be a case of the ultimate in competitive non-neutrality if non-carrier providers could be reimbursed from the fund for providing a service which is not "taxed" for fund contributions when the revenues carriers receive for the same service increase those carriers' USF obligations. In other words, the competitive provision of these WAN/telecommunications capabilities would be skewed. Thus, contrary to petitioners' claims, the principle of competitive neutrality is not being violated by the Commission's decision, but preserved.

Nor should, as Neugent and Weisiger suggest, §706 be used to expand the list of providers eligible to draw from the universal service fund. Section 706 clearly talks about Commission regulation over telecommunication services -- *i.e.*, services provided by carriers. There is nothing in this section that would suggest that non-carriers who do not contribute to the universal service fund should be given access to subsidy payments provided by carriers that offer services that provide similar functionality.

It should be remembered that the purpose of the Act was not to subsidize everything a school might need (*e.g.*, computers in the classroom), but to spread the cost of telecommunications services among telecommunications carriers. Schools are certainly free to take undiscounted non-telecommunication service alternatives if they provide better service and price performance.

III. LOWEST CORRESPONDING PRICE FOR INTERNET ACCESS AND INTERNAL CONNECTIONS.

US West has asked that the Commission to clarify that Internet access and internal connections are not subject to the lowest corresponding price ("LCP") requirement otherwise applicable to telecommunications services. US West correctly points out that non-carrier providers of Internet access and internal connections are not subject to the Commission's or state

commissions' jurisdiction in that regard. Ameritech suggests that that may be true as well when those services are provided by carriers.

Suffice it to say, however, that US West's reading of §54.511(b) of the Commission's rules is likely overbroad. While that rule requires providers of eligible services not to charge price above the LCP, the subsection on its terms presumes eligible services and facilities subject to traditional FCC and state commission regulation. Within that subsection itself there is an exception to the LCP requirement for those circumstances in which the Commission "with respect to interstate services" or state commissions "with respect to intrastate services" find that the LCP is not compensatory. In the regulatory sense, the types of Internet access services and internal connections discussed by the Commission in the Universal Service Order are neither interstate nor intrastate. Thus, it appears that that subsection speaks to telecommunications

services, not to Internet access or internal connections, and the Commission should so clarify. As US West notes, these products and services are intensely competitive and the bidding process itself would provide the necessary safeguard to ensure that schools and libraries obtain the lowest possible price.[10]

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[10] US West petition at 6.

CERTIFICATE OF SERVICE

I, Todd H. Bond, do hereby certify that a copy of the foregoing Comments of Ameritech on Petitions for Reconsideration has been served on the parties listed on the attached service list, via first class mail, postage prepaid, on this 25th day of March, 1998.

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