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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
	)	
	)	
Forward-Looking Mechanism for High Cost Support for Non-Rural LECs	)	CC Docket No. 97-160
	)	
	)	DA 98-715 - USF Proposal
	)	

To: The Common Carrier Bureau

PROPOSAL OF PUERTO RICO TELEPHONE COMPANY

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SUMMARY

Puerto Rico Telephone Company ("PRTC") submits the following proposed modification to the Commission's approach for determining support for non-rural carriers serving insular areas:

- For any insular area that would receive less funding under the proposed proxy model methodology than received under the methodology used in 1998, support for carriers serving a designated universal service area within such insular area shall remain based on the 1998 methodology until at least January 1, 2001.
- For carriers serving the insular areas identified above, there will be no transition to a proxy model methodology unless and until it can be determined that the model accurately predicts a carrier's cost of serving the area.
- For the purposes of this methodology, "any insular area" means any state, commonwealth, or territory that may be classified as insular.

The PRTC proposal is designed to ensure that affordable telecommunications service is available to all consumers, particularly in insular areas, by providing adequate support from the federal universal service fund for carriers serving these areas.

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PROPOSAL OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC") submits its proposed modification to the Commission's approach for determining support for non-rural carriers serving insular areas. The PRTC proposal is designed to ensure that affordable telecommunications service is available to all consumers, particularly in insular areas, by providing adequate support from the federal universal service fund for carriers serving these areas.

I. SUMMARY OF PROPOSAL

During the course of this proceeding, PRTC has commented on and submitted proposals regarding the effect of the non-rural carrier proxy model methodology on the universal service support that is mandated and available for insular areas. In response to the Common Carrier Bureau's recent Public Notice,[1] PRTC formally submits its proposal for

1. "Common Carrier Bureau Seeks Comment on Proposals to Revise the Methodology for Determining Universal Service Support," CC Docket Nos. 96-45 and 97-160, Public Notice, DA 98-715 (rel. April 15, 1998).

the appropriate methodology specifically for determining universal service support for insular areas served by non-rural carriers:

- For any insular area that would receive less funding under the proposed proxy model methodology than received under the methodology used in 1998, support for carriers serving a designated universal service area within such insular area shall remain based on the 1998 methodology until at least January 1, 2001.

- For carriers serving the insular areas identified above, there will be no transition to a proxy model methodology unless and until it can be determined that the model accurately predicts a carrier's cost of serving the area.

- For the purposes of this methodology, "any insular area" means any state, commonwealth, or territory that may be classified as insular.

The Commission has adopted a proxy model methodology for the determination of universal service support for non-rural carriers, which is currently scheduled for implementation on January 1, 1999, while rural carriers will continue to receive support calculated according to the current universal service methodology at least through January 1, 2001.[2] However, the Commission did not adopt a specific universal service support methodology to address universal service needs for insular areas, as required under Section 254(b)(3) of the Communications Act.[3] It is clear, though, that the proxy model methodologies in their present form fail to estimate realistically the cost of providing service in Puerto Rico, an insular area, particularly considering that under the adopted non-rural carrier methodology, federal support would be limited to 25 percent of the total required support identified.

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2. Federal-State Joint Board on Universal Service, 12 FCC Rcd 8776, __ (¶ 204) (1997) ("First Report and Order").

3. 47 U.S.C. § 254(b)(3).

In this regard, many parties — particularly those representing state interests — have expressed concerns regarding the impact of the 25/75 aspect of the methodology on the sufficiency of universal service support. Thus, the Commission appropriately determined that alternative proposals must be considered.[4] Only in this way can it satisfy its finding that "no state should receive less federal high cost assistance than it currently receives."[5] The proposed methodology revision for insular areas will address both the failure specifically to ensure affordable service for insular areas and the Commission's concern about reducing universal service support to states.

II. CARRIERS SERVING INSULAR AREAS SHOULD BE TREATED THE SAME AS RURAL CARRIERS WHEN FEDERAL UNIVERSAL SERVICE SUPPORT FOR THE INSULAR AREA WOULD BE REDUCED UNDER THE NON-RURAL CARRIER METHODOLOGY

The Commission previously has determined that the non-rural carrier methodology will apply to non-rural carriers serving insular areas. Under this methodology, federal universal service support for insular areas will be available only for twenty-five percent of the difference between a proxy model approximation of the carrier's cost of providing supported services and the national revenue benchmark.[6] Depending on the proxy model

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4. Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report to Congress, FCC 98-67 (rel. April 10, 1998) at ¶ 19 ("Report to Congress").

5. Id.

6. First Report and Order, 12 FCC Rcd at 8925 (¶ 269).

output for a particular area, this limitation of support may fail to ensure that basic universal services will be made available at affordable rates.[7]

In this regard, the Commission recently concluded that

> a strict, across-the-board rule that provides 25 percent of unseparated high cost support to the larger LECs might provide some states with less total interstate universal service support than is currently provided through aggregate implicit and explicit federal subsidies. The Commission will work to ensure that states do not receive less funding as we implement the high cost mechanisms under the 1996 Act.[8]

A methodology that substantially distorts federal universal service funding through deep reductions for insular areas is contrary to the express universal service principle that telecommunications services be made available at affordable rates to consumers in high cost, insular, and rural areas.[9] Therefore, the methodology must at least include a qualification that it will not produce a reduction in support insular areas.

A. The PRTC Proposal

The Commission clearly is concerned that the non-rural carrier methodology could result in a reduction of federal universal service support for some states.[10] In some cases, it is apparent that the appropriate calculation may be beyond the present capabilities of the proxy models under review, as the Joint Board and the Commission already have recognized

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7. Report to Congress at ¶ 197.

8. Id. at ¶ 197.

9. See 47 U.S.C. §§ 254(b)(1), (b)(3), (i).

10. See Report to Congress at ¶¶ 11, 19, 197, 219.

with respect to the costs of rural carriers.[11] In fact, this concern is especially valid for Puerto Rico, an insular area that has relied upon federal universal service support in order to maintain affordable rates.[12] Therefore, insular areas that will lose universal service support under the non-rural carrier methodology should be subject to the rural carrier approach — not subject to proxy model methodology until after January 1, 2001, unless and until a model has been developed that properly predicts the costs of serving the area.

In the Recommended Decision, the Joint Board recognized a distinction between rural carriers in general and rural carriers serving insular areas, focusing particularly on the difficulty of accurately estimating carrier costs in insular areas. The Commission subsequently found that there are subsets of carriers — i.e., rural carriers — serving high cost areas that should not immediately be subject to the proxy model methodology. The Commission similarly found that

> because the cost models in the record of this proceeding produced a higher margin of error for rural carriers, the Commission concluded that rural carriers should not begin their transition to the use of a forward-looking economic cost mechanism when the non-rural incumbent LECs transition to their new mechanism in 1999.[13]

This same rationale should be extended to carriers serving those insular areas where application of the non-rural carrier methodology will result in a reduction in federal support. The Commission's pledge "to ensure [its] long-standing commitment to maintaining

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11. See Fourth Order on Reconsideration at ¶¶ 74, 78 (citing First Report and Order, 12 FCC Rcd 8776, 8917, 8936, 8943 (1997)).

12. Puerto Rico is a United States territory and treated as a state under the Communications Act. 47 U.S.C. § 153(40).

13. Fourth Order on Reconsideration at ¶ 78.

affordable rates throughout the country, codified in the 1996 Act"[14] can be best effectuated by recognizing that the difficulty in measuring costs for insular areas necessitates a longer transition to the proxy model methodology, which accurately predicts insular area costs.

B. The Puerto Rico Example

While the Commission has recognized a significant shortcoming of the 25/75 aspect of the proxy model methodology, it should also recognize that the twenty-five percent federal participation exacerbates an already serious problem when the proxy model fails to calculate realistically the cost of providing service. This dual problem is certainly applicable to Puerto Rico, as demonstrated by proxy model data runs.

Both the Hatfield and BCPM model outputs result in extreme reductions in universal service support for Puerto Rico. In 1997, PRTC received over $107 million dollars in combined universal service and long term support.[15] According to the uncapped BCPM, PRTC's[16] total universal service need is $37,055,340, and the Hatfield model forecasts that PRTC should receive only $685,020 in universal service support. Already, the total universal service support predicted by both models for Puerto Rico is a mere fraction of the past support, significantly reducing the support available to the island.

Considering further, however, that federal universal service support is presently formulated to fund only one-quarter of this need, federal support for Puerto Rico as

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14. Report to Congress at ¶ 11.

15. The new universal service fund replaces long term support payment, which necessarily must be considered a component of high cost universal service support.

16. Model runs for PRTC fairly characterize the support that would be available island-wide, although portability of universal service support means that carriers other than PRTC also could receive support.

calculated by the current methodology and the available models would be $9,263,835 and $171,255, respectively. Therefore, the uncapped BCPM reduces Puerto Rico's universal service support to less than one-tenth of its 1997 amount; the Hatfield model reduces support for Puerto Rico to slightly more than one-thousandth of its previous amount.

These reductions, coupled with PRTC's required contribution in excess of $9 million, would entirely eliminate federal universal service support for Puerto Rico. This elimination of USF support predicted according to these proxy model results would breach the Commission's pledge that "no state should receive less federal high cost assistance than it currently receives."[17] This pledge is especially important for an insular area like Puerto Rico, which has only recently achieved seventy-six percent penetration, compared to ninety-four percent penetration nationwide.[18] One cannot yet say that "[u]niversal service is an American success story"[19] for Puerto Rico.

III. THE PRTC PROPOSAL IS CONSISTENT WITH SECTION 254

Congress specifically required that persons in rural, insular, and high cost areas would have available to them affordable service as compared to the rates for services provided in urban areas. In this regard, section 254(b)(3) states that:

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17. Report to Congress at ¶ 197.

18. Telephone Subscribership in the United States, FCC, Common Carrier Bureau, Industry Analysis Division (January 1998) at Table 1. As the Commission stated, "insular areas generally have subscribership levels that are lower than the national average, largely as a result of income disparity, compounded by the unique challenges these areas face by virtue of their locations." First Report and Order, 12 FCC Rcd at 8839 (¶ 112).

19. See Report to Congress, Separate Statement of Chairman William E. Kennard at 1.

> Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.[20]

However, the Commission has failed to establish any provisions tailored for non-rural carriers serving insular areas. Instead, the Commission's approach has effectively read Congress' direction regarding insular areas out of the Act. Adoption of the PRTC proposal would help ensure that Section 254 is "precisely implemented within the letter of the law, and fully implemented according to all — not just part — of its language."[21]

Congress appropriately recognized that insular areas have unique universal service needs by including "insular" in section 254(b)(3), in addition to "rural" and "high cost" and clearly intended that the Commission would target insular areas because they are particularly in need of universal service support. Congress envisioned that the Joint Board and the Commission were to create a universal service system such that consumers in insular areas, and in rural areas, and in high cost areas receive affordable service at rates comparable to consumers in urban areas. However, no specific provision has been made for insular areas, unless consumers in those areas happen to be served by rural carriers. This outcome is contrary to the plain language and intent of the Act and should be rectified with the adoption of the PRTC proposal.

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20. 47 U.S.C. § 254(b)(3) (emphasis added).

21. Dissenting Statement of Commissioner Harold Furchtgott-Roth, Fourth Order on Reconsideration, FCC 97-420 (rel. December 30, 1997).

IV. CONCLUSION

The Commission should revise the methodology for determining federal universal service support for non-rural carriers. Specifically, support for insular areas should be calculated consistent with treatment for rural carriers when the non-rural carrier methodology produces a reduction in support for the state. This proposal will satisfy the requirement under Section 254(b)(3) that the universal service fund satisfy the principle that service be affordable for insular areas, as well as high cost areas and rural areas. The proposal also addresses a specific matter of concern to the Commission, where the twenty-five percent restriction reduces support and places the primary universal service obligation upon these insular areas.

For these reasons, PRTC respectfully requests that the Commission adopt PRTC's proposal for revising the methodology for determining non-rural carrier universal service support for insular areas.

Respectfully submitted,

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Dated: April 27, 1998

CERTIFICATE OF SERVICE

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