

FCC MAIL SECTION

Federal Communications Commission

DA 98-788

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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

DISP

In the Matter of	)	
	)	
Federal State Joint Board	)	
on Universal Service	)	CC Docket No. 96-45 ✓
	)	
Forward-Looking Mechanism	)	
for High Cost Support for	)	CC Docket No. 97-160
Non-Rural LECs	)	

**ORDER**

Adopted: April 23, 1998

Released: April 23, 1998

By the Chief, Common Carrier Bureau:

**I. INTRODUCTION**

1. In the *Universal Service Order*,<sup>1</sup> the Commission concluded that high cost support for non-rural carriers should be based on forward-looking economic costs, and adopted criteria for the economic cost models and studies that will be used to calculate these forward-looking costs.<sup>2</sup> The Commission currently is developing a federal mechanism for determining non-rural carriers' forward-looking cost of providing the supported services.<sup>3</sup> The Commission stated in the *Universal Service Order* that it intended to complete work on the federal mechanism, including all inputs, by August 1998. The *Universal Service Order* also

<sup>1</sup> Federal State Joint Board on Universal Service, *Report & Order*, CC Docket No. 96-45, 12 FCC Rcd 8776 (1997), as corrected by Federal State Joint Board on Universal Service, CC Docket 96-45, *Errata*, FCC 97-157 (rel. June 4, 1997), *appeal pending*, *Texas Office of Public Utility Counsel v. FCC*, No. 97-60421 (5th Cir. filed June 25, 1997).

<sup>2</sup> Universal service support for non-rural carriers will be calculated based on forward-looking economic costs beginning January 1, 1999. *Universal Service Order* at paras 224-226. Support for rural carriers will continue to be based on existing support levels until a model that accurately predicts rural carriers' forward-looking economic costs can be developed. In no event will rural carriers receive support based on forward-looking economic costs before January 1, 2001. *Universal Service Order* at paras. 252-256.

<sup>3</sup> Federal-State Joint Board on Universal Service, *Forward Looking-Mechanism for High Cost Support for Non-Rural LECs*, *Further Notice of Proposed Rulemaking*, CC Docket Nos. 96-45, 97-160, FCC 97-256 (rel. July 18, 1997) (*Further Notice*).

permitted state regulatory commissions to develop their own state-specific cost studies to determine the forward-looking cost of providing the supported services within their respective jurisdictions.<sup>4</sup> The Commission concluded in the *Universal Service Order* that the state cost studies would be subject to public comment and that the Commission would determine whether such cost studies meet the *Universal Service Order's* criteria before they could be used to calculate federal universal service support.<sup>5</sup> The *Universal Service Order* required state commissions that elect to submit cost studies to do so on or before February 6, 1998.<sup>6</sup> In the *First Extension Order*,<sup>7</sup> the Common Carrier Bureau (Bureau) extended until April 24, 1998, the deadline by which states that choose to submit cost studies must file such studies.

2. The Bureau hereby grants a further extension of the deadline until May 26, 1998. State studies must include all input values.

## II. POSITIONS OF THE PARTIES

3. The National Association of Regulatory Utility Commissioners (NARUC) has filed a petition for further extension of the deadline for filing state cost studies, and extension requests or pleadings supporting an extension have been filed by the state commissions of Arizona, Maine, Montana, North Carolina, and Oregon.<sup>8</sup> West Virginia filed a letter stating that it would not be able to complete its cost study before the April 24, 1998 deadline.<sup>9</sup> NARUC requests a general extension for all state commissions until three months after the Commission has selected both the platform and the inputs for the federal mechanism.<sup>10</sup>

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<sup>4</sup> *Universal Service Order* at paras. 247-251.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, CC Docket Nos. 96-45 and 97-160, *Order*, DA 97-2538 (rel. Dec. 3, 1998) (*First Extension Order*).

<sup>8</sup> The petitions were filed February 24, 1998 (NARUC); March 27, 1998 (Arizona); March 2, 1998 (Maine); March 19, 1998 (Montana); March 30, 1998 (North Carolina); and March 16, 1998 (Oregon). All of the states concurred in NARUC's request for an extension of ninety days from the date the Commission selects a complete federal mechanism for determining non-rural carriers' forward-looking cost to provide the supported services, with the exception of North Carolina, which requested an extension of forty-five days, until June 8, 1998.

<sup>9</sup> Letter from the Public Service Commission of West Virginia to Secretary, FCC, dated March 25, 1998.

<sup>10</sup> NARUC Request for Extension of Time at 6. The platform of a mechanism for determining forward-looking economic cost is the set of fixed assumptions and algorithms used to determine the configuration of the network. In contrast, the mechanism's input values include the prices of network components, installation, maintenance, and other variables that can be modified within the mechanism or its components. *See Further*

NARUC asserts that state commissions require additional time because of further delays in receiving final versions of the models that are being considered in this proceeding and resulting delays in the release of the Commission's own order selecting a platform for the federal mechanism.<sup>11</sup>

4. The state commissions request extensions of the deadline or support NARUC's extension request based on the status of their state proceedings and the amount of work required to complete their cost studies. The state commissions also generally state that coordination between state and federal universal service efforts would be advanced if the selection of the federal mechanism is announced before the states are required to file their cost studies.<sup>12</sup>

### III. DISCUSSION

5. As a matter of Commission policy, requests for extension of time are not routinely granted.<sup>13</sup> NARUC and the state commissions have argued convincingly, however, that the April 24, 1998 deadline does not provide states with sufficient time to complete the proceedings necessary, many of which are underway, to develop reasonably accurate cost studies. Given the importance and complexity of these proceedings, we conclude that the public interest would be served by extending the deadline for filing state cost studies.

6. As we found in the *First Extension Order*, however, the length of the extension should not impede the Commission's ability to implement in a timely manner the revised high cost support mechanisms for non-rural carriers based on forward-looking costs.<sup>14</sup> After state cost studies have been submitted, a significant amount of work for the Commission and carriers will remain to be completed before the implementation of the new support mechanisms for non-rural carriers. The Commission must provide an opportunity for public comment on the state cost studies. The Commission must then evaluate the cost studies to determine whether they are consistent with the criteria specified in the *Order*. Once the mechanism for determining the forward-looking cost of providing the supported services has

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Notice at paras. 17-18.

<sup>11</sup> NARUC Request for Further Extension of Time at 4-5.

<sup>12</sup> See, e.g., Arizona Comments in Support of NARUC's Extension Request at 2; Oregon Extension Request at 1.

<sup>13</sup> 47 C.F.R. § 1.46(a).

<sup>14</sup> In the *Universal Service Order*, the Commission stated that it would implement the revised high cost support mechanisms for non-rural carriers on January 1, 1999. *Universal Service Order*, 12 FCC Rcd at 8889 para. 203.

been determined for each state, incumbent local exchange carriers and other carriers must have sufficient time to make any necessary changes to their tariffs. The Commission must then review any changes to incumbent local exchange carriers' interstate access tariffs. Moreover, the Commission has committed to completing a proceeding reconsidering the methodology adopted in the *Universal Service Order* for non-rural carriers before the new methodology is implemented. The Commission's order selecting the complete federal mechanism, including all inputs, is not expected until August 1998.<sup>15</sup> Therefore, we conclude that we cannot grant NARUC's request to extend the deadline for filing state cost studies to three months after the Commission has selected the complete federal mechanism.

7. We find that granting a short additional extension until May 26, 1998, will provide a reasonable opportunity for states that are close to completing their cost studies, and may permit states to make additional improvements to their studies. We believe that this extension will provide state commissions with more time to complete their cost studies while still ensuring that a forward-looking mechanism for determining high cost support can be implemented in a timely fashion. Because of the widespread support for the extension,<sup>16</sup> and because the public interest will best be served by a general extension of the deadline, this extended deadline applies to all state and territorial commissions. We also take this opportunity to clarify that state cost study filings must include a complete mechanism for determining the forward-looking cost of providing the supported services in that state.<sup>17</sup> Thus, states cost study filings that utilize a cost model must include both a platform design selection as well as all input values.

#### IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED, pursuant to the authority contained in section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. section 154(i), and sections 0.91, 0.291, and 1.46 of the Commission's Rules, 47 C.F.R. sections 0.91, 0.291, and 1.46, that the deadline for states to file cost studies for determining the forward-looking cost of providing the services supported by federal universal service support mechanism IS EXTENDED to and including May 26, 1998.

9. IT IS FURTHER ORDERED, pursuant to the authority contained in section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. section 154(i), and sections 0.91, 0.291, and 1.46 of the Commission's Rules, 47 C.F.R. sections 0.91, 0.291, and 1.46,

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<sup>15</sup> See *Universal Service Order*, 12 FCC Rcd at 8910 para. 245.

<sup>16</sup> NARUC's membership includes all U.S. states and territories, and NARUC asserts that its filing was supported by at least 35 jurisdictions. NARUC Request for Further Extension of Time at 2-3.

<sup>17</sup> See *Universal Service Order*, 12 FCC Rcd at 8911 para. 247.

that the requests for extension filed by NARUC and the state commissions of Arizona, Maine, Montana, North Carolina, and Oregon ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A. Richard Metzger, Jr.  
Chief, Common Carrier Bureau