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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

COMMENTS OF PUERTO RICO TELEPHONE COMPANY

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May 15, 1998

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SUMMARY

Puerto Rico Telephone Company ("PRTC") urges the Commission to adopt PRTC's proposed modification to the Commission's approach for determining universal service support for non-rural carriers serving insular areas. Many of the recently submitted proposals and modifications presume the existence of a proxy cost methodology, and it is apparent that this methodology is presently incapable of producing an accurate measure of the cost of providing service throughout Puerto Rico. In addition, those proposals that do not rely entirely on proxy model results do not include all the components of universal service support. Thus, the Commission should adopt the PRTC proposal to ensure that universal service support remains available at least at current levels for Puerto Rico and any other insular area for which affordability of service is jeopardized by the change in funding methodologies. No other proposal or proposed modification to the adopted methodology provides a solution to the anticipated devastating loss of universal support to Puerto Rico under the methodology that will be in place as of January 1, 1999.

This incongruous result can be rectified through the adoption of PRTC's proposal, which provides that:

- 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.

This proposal is compatible both with the existing universal service methodology and any of the modifications or replacement proposals that have been offered by parties to this proceeding. It should be adopted because it effectuates the plain language of Section 254, comports with the Commission's pledge to maintain current levels of support for states, and is consistent with the Commission's rationale for delaying rural carriers' transition to a proxy model methodology.

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To: The Common Carrier Bureau

COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC") urges the Commission to adopt PRTC's proposed modification to the Commission's approach for determining universal service support for non-rural carriers serving insular areas. No other proposal or proposed modification to the adopted methodology provides a solution to the anticipated devastating loss of universal support to Puerto Rico under the methodology that will be in place as of January 1, 1999. Thus, the PRTC proposal is a necessary component of any plan to ensure that affordable telecommunications service is available to all consumers, particularly in insular areas.

I. REVIEW OF PRTC PROPOSAL

The PRTC proposal responds to a significant shortcoming of the revised universal service fund. Although the Commission provided for the special concerns of rural carriers serving both rural and insular areas by delaying the transition to a new methodology for these

carriers, it failed to recognize that similar caution is appropriate for non-rural carriers serving insular areas. Although federal USF should be designed to result in comparable rates to consumers in urban areas for consumers in high cost, rural, and insular areas, an extreme reduction in support to a given state could result instead in a disparate impact on rates when that loss of support results in local residential rate increases and thus less comparable rates for consumers in these areas. Moving immediately to a methodology that imposes significant reductions in universal service support is contrary to the stated purposes of the federal universal service program.

Once outputs were available from the Hatfield and BCPM models, PRTC immediately realized that the application of the proxy model methodology to Puerto Rico would fail to ensure affordable rates and would result in a devastating loss of federal universal service support of more than $100 million. This could not be the result intended under the new universal service program, particularly given that some regional Bell operating companies will receive new or additional universal service support under the new program to eliminate any implicit subsidies from interstate access charges. Under the proxy model methodology, however, PRTC will receive no support that would allow for a reduction in any implicit subsidies and instead encourages possible increases in interstate carrier common line charges and basic local service rates. This incongruous result can be rectified through the adoption of PRTC's proposal, which provides that:

- 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.

This proposal addresses the inability of the proposed proxy model methodology to predict the cost of providing service in an insular area. When the methodology would reduce the level of support for an insular area, application of the PRTC proposal is necessary to ensure that affordable telecommunications service is available to all consumers, particularly in insular areas.

The proposal is compatible both with the existing universal service methodology and any of the modifications or replacement proposals that have been offered by parties to this proceeding. The PRTC proposal should be adopted because it effectuates the plain language of Section 254, it comports with the Commission's pledge to maintain current levels of support for states, and it is consistent with the Commission's rationale for delaying rural carriers' transition to a proxy model methodology. In this way, the PRTC proposal is consistent with the Communications Act and the Commission's stated policy goals for the federal universal service program.[1]

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1. Proposed rules for implementing the PRTC proposal are attached hereto as Exhibit 1.

II. NO OTHER PROPOSAL PROVIDES A REMEDY FOR THE ANTICIPATED LOSS OF UNIVERSAL SERVICE SUPPORT FOR PUERTO RICO

A number of parties have submitted revisions to existing proposals or entirely new proposals. PRTC has reviewed each of these proposals and determined that none of them addresses the potential elimination of universal service support for Puerto Rico or provides an acceptable methodology for determining future support.

A. Increasing the Level of Federal Contribution to Universal Service Support Provides Little Relief for Puerto Rico

A number of parties propose increasing the federal share of support from the current level of 25 percent.[2] This proposal undoubtedly would increase the support received by any carrier for which the proxy model identified even the smallest level of support requirement. The resulting increase for Puerto Rico, however, would be de minimis.

As PRTC stated in its proposal submission, the uncapped BCPM yields a total universal service need of $37,055,340 for Puerto Rico, and the Hatfield model calculates only $685,020 in total universal service support. Even assuming that the entirety of either model output were available to Puerto Rico -- and not many of the proposals would yield a federal contribution of 100 percent -- federal universal service support to the island would be reduced by two-thirds under the BCPM and by more than nine-tenths under the Hatfield model when compared to 1997 federal universal service support. When compared to forecasted 1998 support, the results are even more stark: under the BCPM, support is

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2. See, e.g., Sprint at 8-9 (proposing a national universal service fund); John Staurulakis, Inc. ("JSI") at 8-9 (supporting the elimination of step three of the current methodology); GTE at 21-20 (supporting a sliding scale of variable benchmarks and corresponding percentage of support); U S West at 3 (advocating federal support for all costs exceeding a $50 benchmark).

reduced by almost three-fourths, and under the Hatfield model, support is reduced to less than one-twentieth of the current amounts. Apparently, merely raising the federal universal support contribution under the proxy model methodology provides little relief for Puerto Rico.

B. Manipulation of the Proxy Model Methodology Does Not Reliably Predict the Cost of Providing Service in Puerto Rico

Some parties propose a combination of adjustments to the proxy model methodology, intended to increase the fund distributions. Again, while these adjustments may be appropriate and adequate to provide sufficient funding for any number of states, this is not the case for Puerto Rico.

U S West has proposed a super benchmark plan under which the federal universal service support contribution remains at 25 percent for loop costs greater than or equal to $30 and less than or equal to $50 dollars; loop costs in excess of $50 would be entirely funded (100 percent) from the federal fund. Under this proposal, support for Puerto Rico would be increased under the BCPM by approximately $720,000, to $9,983,805,[3] an amount that would be eliminated by PRTC's required $9 million contribution to the fund.

The GTE proposal, if sufficiently manipulated, results in significant gains compared to the current proxy model outputs, but the manipulations required to result in such gains would not likely be sustainable as means for providing support to all carriers. GTE states that benchmarks must be used as the point of demarcation between federal and state support

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3.

Line 1 - BCPM total support	$37,055,340	
Line 2 - BCPM Federal Support	$ 9,263,835	(L.1 x 25%)
Line 3 - Super Benchmark Increase	$ 720,000	(approx.)
Line 4 - Super Benchmark Total Support	$ 9,983,835	(L.2 plus L.3)

(at 11) and that federal universal service should support any costs above that amount, in addition to funding high cost support and implicit subsidies (at 14-19). To test the possible impact of the GTE model developed based upon its proffered principles, PRTC selected the optimum combination of benchmarks ($20) and federal support level available for costs over that amount (100 percent). This combination of benchmark and federal support amount would result in approximately $100 million in federal support; however, these unlikely support parameters would still result in a reduction in federal support based upon 1998 projections, particularly if the high cost support component and support for any implicit subsidies were not also recovered.

These examples demonstrate that any methodology based upon costs predicted by the proxy models currently under consideration produces unacceptable results for Puerto Rico.[4] The PRTC proposal addresses this problem by maintaining the current methodology for any carrier serving an insular area if the support to the insular area would be reduced under the selected revised methodology. Thus, the PRTC proposal provides a reasonable solution in response to disastrous model results that do fail to satisfy the Commission's stated universal service goals. Unless the failings of the models with respect to Puerto Rico are recognized and addressed, the Commission will not be able to uphold its pledge that "no state should receive less federal high cost assistance than it currently receives."[5] Adoption of PRTC's

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4. Unlike these proxy model revisions, the Ad Hoc Working Group proposal does not depend exclusively on the accuracy of proxy models by incorporating the hold harmless step (the fourth step) in its methodology; however, the proposal does not address the distribution of the LTS component of universal service support.

5. 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").

proposed methodology addendum 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.

III. THE UNIVERSAL SERVICE METHODOLOGY MUST PRESERVE EXISTING FEDERAL SUPPORT TO STATES

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.[6] The methodology must preserve federal support at existing levels consistent with the mandate to make support explicit and to ensure that residential customers do not bear the brunt of changes in universal service distribution methodology. As Chairman Kennard has stated,

> We are especially focused on continuing our efforts to identify and quantify the amount of universal service support that is implicit in access charges and to move those amounts to the explicit funding mechanisms mandated by the 1996 Act. We are not creating new costs that will increase the amounts collected from ratepayers.[7]

For insular areas, these aspirations can be met by including a qualification that no new methodology resulting in a reduction in support will be applied to carriers serving these areas. Part and parcel with the PRTC proposal is the understanding that the components of current explicit support, i.e., high cost and long term support, will still be applied to their

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

7. Remarks by Chairman William Kennard to USTA's Inside Washington Telecom (April 27, 1998) (as prepared for delivery).

respective jurisdictions. Universal service support earmarked as high cost support should still be applicable to intrastate revenue requirements, and long term support must be applied to interstate access revenue requirements, as envisioned by the Commission.

A. Carriers Must be Permitted to Use Universal Service Support to Maintain Affordable Local Rates

Currently, local customers benefit from carriers' receipt of federal universal service high cost support. If this support is restricted to the reduction or elimination of interstate access revenues requirements, local ratepayers may experience a basic service rate increase. As PRTC has stated throughout this proceeding, a rate increase in Puerto Rico is likely to force existing customers off the network, thereby exacerbating an already low penetration rate of 76 percent.[8] This result is directly contrary to the goals of universal service -- to make rates comparably affordable for all consumers to encourage telephone service penetration without regard to consumer location. Revisions to the universal service methodology must be designed to avoid this outcome.

Some proposal proponents recognize that using federal universal service support only to buy-down access charges will impose significant limitations on the ability of universal service to ensure comparable and affordable rates for consumers. One of Sprint's proposed principles is that implementation of the universal service plan must be revenue-neutral at its inception.[9] According to this principle, universal service should be applied to interstate

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8. See GTE at 18-19 (stating that if the current amount of funding provided to non-rural companies under the current fund are not maintained, "states would be left with a shortfall which they would have to make up through some combination of rate increases and state universal service report").

9. Sprint at 11-12.

access charges only when the carrier receives an increase above current universal service high cost support payments. Implementation of this principle is intended "to ensure that subscribers, regardless of income level or physical location, have access to quality telecommunications services at reasonable and affordable rates."[10]

JSI offers a similar principle. It would require that the majority of universal service funding be used by states to ensure that intrastate services are maintained at a "reasonably comparable rate level, nationwide."[11] PRTC agrees with these proposed principles, that current universal service high cost support should still be used to reduce basic local rates. Because this practice ensures comparable, affordable rates consistent with the Section 254, it should not be changed under the revised universal service program.

B. Universal Service Support Cannot Eliminate Any Implicit Subsidies By Reducing or Eliminating Current Support

Section 254(b)(5) of the Communications Act requires that universal service support be specific and predictable.[12] The Commission has thus adopted a plan for federal universal service designed to remove universal service support from implicit interstate mechanisms and recover that support instead by means of an explicit mechanism.[13] In this regard, GTE concurs that the elimination of implicit subsidies must be one of the minimum criteria for the universal service fund, without creating new implicit subsidies at the same time.[14] This

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10. Id. at 11.

11. JSI at 3.

12. 47 U.S.C. § 254(b)(5).

13. See Report to Congress at ¶ 230.

14. GTE at 8.

plan, coupled with the Commission's pledge that universal service support to any state would not be reduced from current levels, requires that the universal service funding amount must exceed the amount provided to a carrier through LTS and the high cost fund. Only in this way can the Commission use the universal service fund to eliminate implicit subsidies from the interstate access charge regime.[15]

For many carriers, implementation of the goal to reduce or eliminate any implicit support is relatively easy. Any additional support received above current levels may be applied to the interstate access revenue requirement, and the corresponding rate reduction would reflect a removal of implicit subsidies generated through interstate access charges. This simple example, however, does not suitably apply to carriers for whom the existing level of explicit support would be reduced or eliminated under the proxy model methodology. The reduction or elimination of the current explicit support amount could encourage an increase in implicit subsidies. The PRTC proposal addresses this issue by ensuring that at least the current level of explicit support, including calculated long term support payments, may be maintained such that implicit subsidization through interstate access charges is not encouraged.

IV. CONCLUSION

The proposals recently submitted for revising the methodology for determining federal universal service support for non-rural carriers demonstrate that difficult issues must be

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15. GTE at 14 ("the Federal plan must be large enough at least to replace the implicit support which is provided today by interstate access charges").

resolved to implement the federal universal service program consistent with the Communications Act. However, many of the proposals presume the existence of a proxy cost methodology, and it is apparent that this methodology is presently incapable of producing an accurate measure of the cost of providing service throughout Puerto Rico. In addition, proposals that do not rely entirely on proxy model results do not include all the components of universal service support. Thus, the Commission should adopt the PRTC proposal to ensure that universal service support remains available at least at current levels for Puerto Rico and any other insular area for which affordability of service is jeopardized by the change in funding methodologies. This proposal may be appended to any of the existing or proposed funding methodologies.

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: May 15, 1998

EXHIBIT 1

DRAFT RULES TO IMPLEMENT PRTC USF PROPOSAL

Section 54.___

For purposes of this Subpart, the following definitions apply:

Insular area means any state, commonwealth, or territory that is an island.

Universal service methodology is the methodology set forth under Section 54.___ for calculation of universal service support.

1998 methodology means the methodology set forth in §§ 54.301 (DEM weighting) and 54.303 (long term support), if applicable, and Part 36, Subpart F (high cost support).

Section 54.___

(a) For any insular area that would receive less funding under the universal service methodology than received under the 1998 methodology, 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.

(b) No carrier serving the insular areas identified in subpart (a) will be subject to the universal service methodology unless and until it can be determined, by Commission order, that the methodology accurately predicts a carrier's cost of serving the area and provides sufficient support for providing the service at affordable rates.

CERTIFICATE OF SERVICE

I, Dottie E. Holman, do hereby certify that a copy of the foregoing Comments of Puerto Rico Telephone Company was sent by hand-delivery or first-class mail, as indicated, this 15th day of May, 1998 to the following:

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