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May 29, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, Room 222
Washington, DC 20554

Re: Ex Parte in Universal Service, CC Docket No. 96-45 and Access Reform, CC Docket No. 96-262

Dear Ms. Salas:

Recently, MCI and AT&T have made *ex parte* contacts with the Commission which discuss alternative assessment, collection and recovery mechanisms for universal service contributions.[1] A common thread to these presentations has been the idea that some or all of the universal service contributions be recovered through a "per line" charge that local exchange and wireless carriers would assess on their customers. Any approach that would make local exchange and wireless carriers (to the exclusion of other interstate carriers) the only contributors for part of the universal service fund is fundamentally flawed.

Singling out local and wireless carriers as contributors to the universal service fund is contrary to the expressed requirements of the Communications Act. Section 254(d) of the Act provides that "every telecommunications carrier that provides interstate service shall contribute...to the... mechanisms established by the Commission to preserve and advance universal service." The plain language of the Act makes clear that the only discretion that the Commission has to exempt carriers from contributing to the fund is if such contributions would be *de minimus*. There is no question that interexchange carriers do not fall within the scope of the *de minimus* exception.

MCI would apparently have the Commission believe that the term "every" in Section 254(d) does not have its plain meaning of all. Instead, MCI suggests that the requirement for equitable and nondiscriminatory contributions provide the Commission with the authority to discriminate among interstate carriers and select which carriers contribute to the universal service fund. Not only is such an interpretation contrary to every rule of statutory construction but, in addition, irreconcilable with the statute's only contribution exemption, the *de minimus* exemption. Hence, any approach that would shift some or all of the interexchange carrier's

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[1] *See* Letter to Ms. Magalie Roman Salas, Secretary, Federal Communications Commission from Mary L. Brown, dated May 21, 1998; Letter to Ms. Magalie Roman Salas, Secretary, Federal Communications Commission from Rick D. Bailey dated May 19, 1998.

responsibility for universal service contributions to local exchange and wireless carriers is impermissible under the Act.

Should the Commission decide to pursue a per line recovery mechanism for local exchange carriers, BellSouth believes that a rulemaking proceeding is a prerequisite. Not only should parties be afforded the opportunity to comment on any new rules proposed by the Commission, but, in addition, the Commission must consider the appropriate treatment of Centrex-type and ISDN services under a per-line approach. Competitive conditions simply do not permit assessing the same per-line charge on Centrex and ISDN services as might be assessed on other lines. The Commission has recognized these competitive impacts in the way PICC charges are assessed on such services and BellSouth believes that a similar approach would be warranted if a per line universal service recovery mechanism were adopted. In any event, such matters can only be considered in the context of a rulemaking proceeding.

To the extent the Commission were to adopt a new recovery approach that required carriers to establish a new line item on their bills, the Commission must be mindful of implementation considerations. Depending on the requirements, it could take up to six months to modify billing systems to accommodate a new recovery mechanism. Accordingly, the Commission's expectations regarding the time when a new mechanism might begin must factor in the time it will take for carriers to modify their billing systems.

Finally, while BellSouth is committed to working with the Commission to explore alternative assessment, collection and recovery universal service mechanisms, these efforts should remain focused on universal service. Both AT&T and MCI obfuscate the issues by raising irrelevant matters regarding access charge reform. The Commission has adopted a plan for access charge reform that is based upon a comprehensive record developed in a rulemaking proceeding. This plan involves the balancing of a multitude of competing interests and cannot be modified without seriously undermining the balance struck by the Commission. Whatever determinations the Commission may make regarding universal service are independent of the access charge reform plan adopted by the Commission.

Yours truly,

W. W. Jordan
Vice President – Federal Regulatory

Attachment

cc: John Nakahata	Kevin Martin	Jim Schlichting	Rich Lerner
Jim Casserly	Paul Gallant	Jane Jackson	Melissa Waksman
Kyle Dixon	Tom Power	Lisa Gelb	