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Federal Communications Commission
Office of Secretary

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

In the Matter of	)	
	)	
State Forward-Looking Cost Studies for	)	CC Docket Nos. 96-45, 97-160
Determining Universal Service Support	)	DA 98-1055
	)	APD No. 98-1

To: Common Carrier Bureau

COMMENTS OF CELPAGE, INC.

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SUMMARY

Although Puerto Rico has a serious universal service problem on its hands, the Puerto Rico Telecommunications Board's "cost study" estimates are not part of the solution. First of all, the Board's study was released to the FCC in violation of Puerto Rico's Telecommunications Act, which requires public notice and comment concerning all universal service regulations. In addition, the Board's three-page letter, compared to the detailed cost studies prepared by most all other states, does not give the FCC sufficient information upon which to judge the merits of the Board's "cost study." The Board's factual assumptions appear to be based on embedded costs, rather than forward-looking costs. Even if embedded costs were appropriate for universal service calculations, there are many reasons why PRTC's embedded costs are unreasonably higher than most U.S. telephone companies. Moreover, since the Board does not have rate-making authority over PRTC, and PRTC has *never* released forward looking cost information for public scrutiny, the Board's calculations cannot be accurate.

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To: Common Carrier Bureau

COMMENTS OF CELPAGE, INC.

Celpage, Inc. ("Celpage"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, hereby submits these Comments in response to the FCC's June 4, 1998 Public Notice ("Notice") in the above-referenced proceeding. In particular, Celpage is commenting on the "cost study" submitted by the Puerto Rico Telecommunications Board (the "Board").

I. Statement of Interest.

Celpage is the parent company of Pan Am License Holdings, Inc., a Commercial Mobile Radio Service ("CMRS") licensee with facilities throughout the Commonwealth of Puerto Rico and the United States Virgin Islands. Celpage provides one-way paging services, under Parts 22 and 90 of the Rules, through wide-area paging networks that are interconnected to Puerto Rico Telecommunications Company's ("PRTC") local telephone network. Celpage has grown to become the second largest paging company in Puerto Rico, and is one of the largest privately-owned paging companies in the United States.

Celpage is second in size only to the Puerto Rico government owned paging entity, Celulares Telefonica ("CT"), which is a division of PRTC. Celpage currently provides service to

approximately 138,000 paging units throughout Puerto Rico. Celpage offers alphanumeric and numeric messaging services to its customers and handles an average of 10 million calls per month.

PRTC provides local and interexchange telephone service within Puerto Rico. In addition, PRTC operates paging services through its "CT" division, which directly competes against Celpage. PRTC currently has nearly twice as many paging units in service as Celpage, its nearest competitor. Consequently, due to its status as an inter-carrier and competitor with PRTC, Celpage has standing as a party in interest to file formal comments in this proceeding, and has personal knowledge of relevant facts that the FCC should consider in reviewing the Board's cost study.

II. Background

The Board's "cost study" model purports to be the Benchmark Cost Proxy Model (BCPM), modified to "model specifically Puerto Rico's unique service characteristics." Board letter to FCC at 1 (May 8, 1998), attached hereto as Exhibit One. The Board's model produces total annual support for Puerto Rico of $190.9 million.

To understand the Board's conclusions, they must be viewed in context with the recently submitted "Proposal of Puerto Rico Telephone Company" ("PRTC Proposal"). PRTC's Proposal would maintain Universal Service support in all "insular areas" at their current levels, should any proposed proxy model reduce support payments below their current levels. PRTC and the Board are obviously worried that under either of the proposed proxy models, Puerto Rico's support will be reduced from 1997's approximately $145.5 million, to either $37 million or as little as

$682,000 starting next year.[1] The Board's $190 million figure, then, seeks to ensure that if PRTC's Proposal is not adopted, Puerto Rico will at least obtain more federal support than it would under either of the proposed models.

In light of these figures, Celpage has previously agreed with PRTC's Proposal for a postponement of the USF proxy model until at least January 1, 2001; however, Celpage disagrees with the reasons given for the need for such postponement. The reality is that the continuation of these PRTC subsidies will reward PRTC for decades' worth of unregulated, monopoly practices; however, the sudden elimination of these subsidies would wreak financial havoc on competitive telecommunications carriers and their customers in Puerto Rico.

Assuming that PRTC's subsidies total $146 million, and 25% is supported from the federal fund, the government of Puerto Rico would have to impose about $109,500,000 in USF contributions to make up the shortfall, which is approximately an 11% tax on all intrastate Puerto Rico telecommunications revenues. The total tax on telecommunications services, including federal USF contributions and local USF contributions, would amount to over 16%. This regressive tax will become a huge entry and operational barrier for competitive carriers such as Celpage, and could price essential wireless telecommunications services out of the reach of hundreds of thousands of personal and business users.

If the Board's figures are accurate; however, the problem becomes worse. The federal

---

[1] According to FCC records, PRTC's problem is actually worse than it has suggested to the FCC. In the document titled "Universal Service Support and Telephone Revenue by State" published by the Common Carrier Bureau's Industry Analysis Division in January 1998 (hereinafter, the "Division Report"), all the components of the Puerto Rico Universal Service Fund ("USF") contribution for 1997 are itemized. PRTC received in 1997 a total of $145,574,000 in support payments, while contributing only $8,944,000 to the USF.

government will cover approximately $47.8 million of the Board's projected costs; while telecommunications carriers and taxpayers in Puerto Rico will be saddled with an enormous 15% tax to cover the balance of $143.2 million. There is no way that any telecommunications service provider could absorb a combined local and federal universal service fee of 20% on gross revenues. Consequently, if the Board's cost study is approved by the FCC, the inevitable consequence will be an increase of 20% in the cost of telecommunications services to customers in Puerto Rico; that is certainly contrary to the fundamental objectives of the Universal Service program.

Although Puerto Rico has a serious universal service problem on its hands, the Board's "cost study" estimates are not part of the solution. First of all, the Board's study was released to the FCC in violation of Puerto Rico's Telecommunications Act, which requires public notice and comment concerning all universal service regulations. In addition, the Board's three-page letter, compared to the detailed cost studies prepared by most all other states, does not give the FCC sufficient information upon which to judge the merits of the Board's "cost study." The Board's factual assumptions appear to be based on embedded costs, rather than forward-looking costs. Even if embedded costs were appropriate for universal service calculations, there are many reasons why PRTC's embedded costs are unreasonably higher than most U.S. telephone companies. Moreover, since the Board does not have rate-making authority over PRTC, and PRTC has *never* released forward looking cost information for public scrutiny, the Board's calculations cannot be accurate.

The Board's guesswork again underscores the serious need for FCC scrutiny of PRTC's rates, practices, and costs. Consistent with its disregard of the Telecom Act, the Puerto Rico

Telecommunications Act, FCC regulations and Board orders, PRTC refused to provide the Board with the information the Board requested in order to be able to prepare an accurate forward-looking cost model for the universal service program. Consequently, the FCC ought to immediately begin a thorough investigation of PRTC's operations, to determine how and why PRTC is spending so much more per telephone loop and line than any comparable LEC in the United States, and, to keep PRTC from unlawfully subsidizing its competitive services.

III. The Board's Study Violates Local Statutes

The Board was created under the Puerto Rico Telecommunication Act of 1996 ("P.R. Telcom Act"); and, its powers are precisely enumerated under, and limited by, that Act. Article 6(c) of the P.R. Telcom Act describes the procedures that the Board must follow before adopting any "universal service support mechanisms ...." Copies of the pertinent provisions of the Act are attached hereto as Exhibit Two. The statute specifically states that the Board "shall initiate a formal procedure for implementing universal service support mechanisms throughout Puerto Rico." And, that procedure "shall include a period of notification and comments." *Id.* at 29 (Article 6(c)(1)). Finally, if the Board adopts a universal service support mechanism that is different from one the FCC has adopted (as appears to be the case here), then that decision "shall require the unanimous vote of the Board members." *Id.* (Article 6(c)(2)).

The Board did not follow any of these statutory procedures when it submitted its cost study to the FCC. The Board's revisions to the BCPM, or even its decision to follow the BCPM, were never subject to public notice and opportunity for comment. To Celpage's knowledge, the Board never met to vote on its proposal. Indeed, even the Board's letter to the FCC, wherein it submitted its cost study, shows no evidence that this matter was formally adopted by unanimous

vote of the Board, as the statute requires. Accordingly, the Board's submission to the FCC was *ultra vires* and should not be considered by the FCC.

The FCC may recall that both the Board and PRTC filed objections to several FCC preemption petitions that were filed by Celpage and other telecommunications carriers concerning the P.R. Telcom Act. The Board and PRTC are thus on record with the FCC as attesting to the merits of that statute, and its conformance with federal law. Hence, the FCC should order the FCC to withdraw its proposed cost study, and initiate a lawful public comment proceeding, before adopting any new or revised cost study for Puerto Rico.

IV. The Cost Study is Flawed and Suspect

Apart from the procedural infirmities of the Board's cost study, the FCC should reject the Board's proposal because it contains many factual inaccuracies and is not in accordance with the FCC's cost study requirements. Other insular areas, such as Hawaii, have submitted to the FCC detailed, item by item cost studies. See Hawaii Cost Study, attached hereto as Exhibit Three. Particularly in light of the Board's request for a 30% increase in its annual subsidies, the FCC ought to expect at least a comparable degree of specificity in the Board's cost study. Instead, the Board provided the FCC with a cursory, three page letter, that seems designed specifically to reach a target annual subsidy of $191 million.

In fact, a review of this cost study, as performed in the attached Declaration from HAI Consulting, Inc. (formerly Hatfield Associates, Inc.), reveals that the Board's cost study is factually flawed in many respects. First of all, the Board's "specific input values established for Puerto Rico ...", are apparently based on PRTC's embedded costs, rather than forward looking costs. *Id.* at 1; see Declaration of A. Daniel Kelley, Exhibit Four, attached hereto ("Kelley

Declaration"). Presumably, PRTC did not make its forward looking cost estimates available to the Board. Nevertheless, the FCC has required that universal service supports be based on forward looking economic costs, not embedded, historic costs. See *Federal-State Joint Board on Universal Service*, Report & Order, 12 FCC Rcd. 8776 at ¶¶ 223-268 (May 8, 1997), appeals pending, nos. 97-604 21, *et al.* (5th Cir.).

That basic problem with the Board's cost study is compounded by a series of inaccurate assumptions. For instance, the Board's study apparently used embedded costs taken from PRTC's entire operations, even though universal service functions represent only a small portion of PRTC's operations. See Kelley Declaration at 3.

Even assuming that embedded costs are appropriate for universal service cost studies, PRTC's embedded costs are unusually high compared to most U.S. telephone companies. As explained in Dr. Kelley's Declaration, PRTC's costs are comparable to those of inefficient state-owned monopolies in foreign countries, which is not surprising since PRTC is owned by the Puerto Rico Government. See Kelley Declaration at 5, n.6. This is a point that Celpage stressed in its previous Comments to the FCC regarding PRTC's proposal to exempt insular areas from cost study requirements. See "*Proposals to Revise the Methodology for Determining Universal Service Support*," Celpage Comments at 4-5 (May 15, 1998). For instance, PRTC's number of employees per line is more than three times the U.S. national average. Kelley Declaration at 5.

Celpage has previously explained, and Dr. Kelley's study confirms, that PRTC's costs of providing universal service should be relatively low, since Puerto Rico is so densely populated. Celpage Reply Comments at 8-9 (May 28, 1998); Kelley Declaration at 7. Dr. Kelley notes that population density is a "key driver of forward-looking telephone costs", and that in light of

Puerto Rico's very high population density, PRTC's costs per line "should be lower ... than for the average telephone company." *Id.*

Dr. Kelley also notes that average wages are substantially lower in Puerto Rico than the rest of the U.S., and, since these costs account for 36% of plant specific operations expenses, forward-looking operating expenses for PRTC "should be substantially lower than those in the mainland U.S." *Id.* at 6.

Finally, as Celpage has previously noted, Puerto Rico's geographic and topographic characteristics should be discounted as having any noticeable adverse impact on universal service costs. Dr. Kelley notes that both of the proposed cost study models have built-in adjustments for factors such as terrain; and, in any event, Puerto Rico's terrain is not any different from that of other insular or mountainous states where per-line costs are substantially lower than PRTC's. *Id.* at 6-8; see also Celpage Reply Comments at 8-10.

In short, if there are "unique characteristics" in Puerto Rico, as the Board and PRTC contend, the conclusions to be reached from them are quite contrary to those drawn by the Board and PRTC. The "unique" cost, geographic, and other aspects of Puerto Rico all point to lower forward looking costs than is the case in many states. The fact is that by any measure, PRTC is horribly inefficient; it should not need $190 million, or even its current $147 million per year to provide universal service throughout Puerto Rico. PRTC is the 12th largest telephone company in the U.S.; it serves a densely populated area that has some of the lowest expenses in the U.S. PRTC's failure to provide basic telephone services to nearly 25% of Puerto Rico has nothing to do with the fact that Puerto Rico is an island; it has everything to do with decades' worth of inefficient operations and a lack of effective regulatory oversight.

V. The Importance of FCC Oversight

The time is long overdue for the FCC to determine how universal service subsidies have been squandered in Puerto Rico, and, to impose strict conditions on PRTC's continued receipt of federal largess. If the FCC does not make these determinations, then, Puerto Rico's telecommunications industry will be saddled with 75% of the bill for PRTC's continued inefficient use of universal service subsidies. The FCC's statutory goals of promoting universal service and of creating open entry opportunities for telecommunications services, are directly threatened by PRTC's inefficient cost structure and improper cross-subsidies.

The Board does not have authority to regulate the PRTC's rates; and, PRTC has not been subject to tariffs and rate regulations for 20 years. Consequently, it is highly unlikely that this Board had access to the type of data it needed to perform an accurate cost study throughout Puerto Rico. That is not the Board's fault; it is constrained by the P.R. Telcom Act from regulating PRTC's rates.

Because PRTC's rates and practices are essentially sheltered from local regulatory oversight, the FCC needs to be particularly vigilant and cautious before approving *any* cost model/cost study for Puerto Rico. The FCC should reject the Board's cost study, and order the Board to hold public hearings to investigate PRTC's rates, costs, and practices.

In addition, as Celpage has previously requested, the FCC should impose the following express conditions on PRTC before approving PRTC's Proposal for continued USF support without any cost justifications:

1. For years, PRTC has been pricing its competitive CMRS services at or below costs. This has presumably exacerbated its higher than average costs for universal services. The

FCC should put an immediate end to these unlawful practices, by requiring PRTC to establish a separate subsidiary for its competitive services. In addition, the FCC should order PRTC to make all its books and accounts available for public scrutiny should there be any further instances of apparent unlawful cross-subsidies.

2. PRTC and the Board evidently want the FCC to essentially "reverse engineer" the USF formula, to produce a result that will maintain the *status quo* in Puerto Rico, which is to keep receiving for the foreseeable future $147 million or more in annual subsidies. In exchange for granting PRTC any exemption from the cost-based models, the FCC should order PRTC to produce cost-based explanations for all its rates and services, including interconnection and access charges. Moreover, PRTC needs to make this analysis in comparison to the costs of comparable carriers throughout the U.S.; otherwise, PRTC will simply be justifying its subsidies based on its current bloated payroll and inherent inefficiencies. If PRTC will not voluntarily agree to make its rates cost-based, then the FCC may need to reconsider whether PRTC is entitled to a waiver of the cost-study obligation to continue to receive its high subsidies.

3. The FCC should clearly state that PRTC will have until a date certain to justify this "waiver" of the proxy model; beyond which time it will qualify for USF supports on the same criteria as all other urban carriers. Moreover, if PRTC is sold to another telecom carrier, this exemption should immediately terminate. Absent these definite deadlines, PRTC will continue to do what it has historically done with the FCC: continue to plead that it is a "special case" that requires continual waivers of the FCC's rules, without proving the merits of that preferential request.

Conclusion

WHEREFORE, the foregoing premises considered, Celpage respectfully requests that the Commission reject the Board's modified cost study for Puerto Rico, and initiate an investigation into PRTC's rates and practices.

Respectfully submitted,
CELPAGE, Inc.

By: _____
Frederick M. Joyce
Its Attorney

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Date: June 25, 1998

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CERTIFICATE OF SERVICE

I, Rhonda M. Johnson, a secretary in the law firm of Joyce & Jacobs, Attorneys at Law, L.L.P., do hereby certify that the foregoing Comments of Celpage, Inc. were served, on this 25th day of June, 1998, by first class U.S. mail, postage prepaid upon the following:

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GOVERNMENT OF PUERTO RICO
TELECOMMUNICATIONS REGULATORY BOARD
OF PUERTO RICO,

Office of the President

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MAY 2 6 1998

Federal Communications Commission
Office of Secretary

May 8, 1998

FCC Common Carrier Bureau
1919 M Street, NW
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To whom it may concern:

In accordance with the option granted state commissions in the Universal Service Order, FCC 97-157, at paragraph 248, the Telecommunications Regulatory Board of Puerto Rico hereby notifies the FCC of its model selection and the specific modeling results.

After considerable review of the criteria established by the FCC, Universal Service Order at paragraph 250, the Board has adopted the Benchmark Cost Proxy Model, BCPM 3.0 as a methodology that satisfies the FCC criteria.

Based upon the specific input values established for Puerto Rico, the total aggregate annual support for Puerto Rico derived form the model is $190,972,908.00. This amount reflects the $31 residential and $51 business benchmark tentatively established by the Commission.

The Board has made six types of input changes to the BCPM default values. These inputs were changed in the BCPM model in order to model specifically Puerto Rico's unique service characteristics. Progressing in order as they appear in the BCPM model input spreadsheet, the changes are as follows:

1. **ARMIS Percent Local Calls** and **ARMIS Percent Toll Calls**: These inputs were changed from the defaulted 81% and 19% to **54%** and **46%** respectively. This reflects the percentage of local calls based on a six month average DEM usage study conducted from January to June 1996.

2. **ARMIS Percent Residence Lines** and **ARMIS Percent Business Lines**: These inputs were changed from the defaulted 67.45% and 32.55% to **74.05%** and **25.95%** respectively.

3. **5 Share** and **DMS Share**: These inputs are defaulted as a 50%/50% split. Based on the technology employed in Puerto Rico, this allocation was changed to a **2%/98%** split in favor of the DMS switch.

4. **Pairs Per Business Location**: This input is defaulted to set the minimum number of cable pair per business location to 6. To produce a scenario more characteristic of Puerto Rico the minimum was set at **2**.

5. **Support Table Ratios**: The changes made in this table were based on expense data supplied by the incumbent LEC, PRTC, and audited by Ernst & Young dated 6/11/97. The changes in each specific account are as follows:

Acct.	Category	Default	Variable Used
6112	Motor Vehicle	0.739%	**1.2507%**
6114	Special Purpose Vehicle	0.001%	**0.0001%**
6115	Garage	0.032%	**0.0037%**
6116	Other Work Equipment	0.627%	**0.7976%**
6122	Furniture	0.233%	**0.5723%**
6123	Office Support	0.701%	**0.6517%**
6124	Computers	2.965%	**2.5101%**

6. **Per Line Monthly Operating Expenses for Small, Medium and Large Companies**: The changes made in this table were based on 90 percent of expense data taken data supplied by PRTC, and audited by Ernst & Young dated 6/11/97. The figures entered in each account in the Fixed Cost per Line Table were the same for Small, Medium and Large companies as well for both Residence and Business lines. The changes in each specific account are as follows:

Acct.	Category	Default	Variable Used
6110	Network Support Expense	$0.15	**$0.15**
6120	General Support	$1.20	**$4.69**
6210	COE Switching	$0.34	**$1.79**
6230	COE Transmission	$0.23	**$1.31**
6310	Information Orig/Term	$0.07	**$0.20**
6411	Poles	$2.76	**$0.13**
6421	Aerial Cable	$0.00	**$3.41**
6422	UG Cable	$0.00	**$0.60**

6422	UG Cable	$0.00	**$0.60**
6423	Buried Cable	$0.00	**$1.09**
6441	Conduit Inv.	$0.00	**$0.00**
6510	Other Property Plant	$0.03	**$0.12**
6530	Network Operations	$1.33	**$3.73**
6610	Marketing	$0.35	**$0.75**
6620	Services	$2.42	**$3.39**
6710	Exec. and Planning	$0.14	**$0.35**
6720	General and Admin.	$2.15	**$4.37**
6790	Uncollectibles	$0.17	**$0.00**

Since these changes constitute all changes currently approved by the Board, we do not find it efficient to send copies of the BCPM output or copies of the input spreadsheets. If you wish to have an electronic version of our approved model, please notify us and we will comply with your request.

The Board reserves the right to make additional changes and modifications to the inputs used for determining Puerto Rico support as changes to the models and changes to the default values are made in the future.

We submit this report with misgivings. Our review of the models indicates that the models are not yet ready to provide a proper foundation for public policy. However, despite our misgivings, the FCC requirement to submit cost studies is upon us.

We would be glad to discuss these numbers with you at your convenience.

Sincerely,

Phoebe Forsythe Isales

Phoebe Forsythe Isales
President of the Board

Article for public inspection within ten (10) days following their approval. The Board may charge a reasonable, non-discriminatory charge on the parties to an agreement or on the party that files a statement to recover costs of approval and filing of such agreements or statements.

(i) Availability for other Telecommunication Companies. A local exchange carrier shall make available any interconnection, service or access to elements of the network available under an agreement approved within the scope of this Article to which it is a party, to any other telecommunication company that so requests, under the same terms and conditions as are provided in said agreement.

(j) Definition of Incumbent Local Exchange Carrier. For the purposes of this Article, the term "incumbent local exchange carrier" shall have the meaning set forth in clause (b) of Article 3, Chapter I hereof.

Article 6. - Universal Service.

(a) Principles of universal service.

(1) The Board shall preserve and promote universal service through predictable, specific, sufficient support mechanisms, pursuant to the provisions of Section 254 of the Federal Communication Act, and also, in accordance with the following principles:

(i) The goal of universal service is to provide telecommunication services of comparable quality to all segments of the citizenry and geographic areas of Puerto Rico.

(ii) Telecommunication services shall be available throughout Puerto Rico at fair and reasonable prices, which means that service tariffs in rural areas shall be reasonably comparable to prices in urban areas.

(iii) Advanced telecommunication services shall be available in all municipalities and communities, and also in all health service installations, libraries and public school classrooms in Puerto Rico.

(2) Every telecommunication company shall contribute to the preservation and development of universal service in Puerto Rico on an equitable, non-discriminatory basis, as established by the Board.

(3) The structure of the contribution mechanisms that the Board develops, implements and periodically reviews must be complementary to, but not duplicate the contribution mechanisms established at the federal level.

(4) Universal service must, at the minimum, include the following services,

without excluding other service, as the Board may provide under the scope of clause (c)(3) of this Article:

(i) access of every public switched telephone network with voice grade capability;

(ii) single party service;

(iii) free access to emergency services, including 911 emergency service; and

(iv) access to operator service.

(b) Determination of eligible telecommunication companies.

(1) The Board, at its own initiative or by petition, may designate a telecommunication company as an eligible telecommunication company to render universal service in one or more areas designated by the Board. By petition, and pursuant to public interest, need and convenience, the Board may designate more than one company as an eligible telecommunication company for a service area it establishes, provided each company fills the requirements of clause (b)(2) of this Article. For the purpose of making the corresponding designation, the Board shall take technological factors and the cost of providing service, among other factors. into consideration.

(2) In order for a telecommunication company to be designated as an eligible telecommunication company for receiving universal service program funds, within the entire service area for which it has been designated, it must:

(i) offer support services for the universal service program utilizing its own facilities or a combination of its own facilities and the resale of services of another telecommunication company; and

(ii) advertise the availability of such services and the charges for same through newspapers of general circulation.

(3) If a telecommunication company that receives universal service program funds does not wish or cannot provide service to a community or to a portion thereof, as it has been requested to do, the Board shall determine which telecommunication companies are in the best position to provide such service and shall order them to proceed correspondingly. Any telecommunication company that may be ordered to provide services under this clause must comply with the requirements of clause (b)(2) of this Article and shall be designated as an eligible

telecommunication company for such community or portion thereof.

(4) The Board, through its prior authorization, may permit an eligible telecommunication company to abandon its designation in any area served by more than one eligible telecommunication company. Prior to granting the authorization, the Board shall impose upon the remaining eligible telecommunication companies the obligation of assuring service to the users of the eligible telecommunication company that is withdrawing, and shall require sufficient notification to permit the purchase or construction of adequate installations by any other eligible telecommunication company. The costs and expenses incurred by the telecommunication companies in providing eligible services shall be reimbursed through the procedures of universal service support. The Board shall establish a time period, not to exceed a year following the approval of such withdrawal under this clause, to complete purchase or construction.

(c) Procedures of universal service.

(1) Within one hundred twenty (120) days following the constitution of the Board, it shall initiate a formal procedure for implementing the universal service support mechanisms throughout Puerto Rico. As part of this procedure, the Board shall take into consideration the report, if any, that has been filed by the Federal-State Joint Board created by virtue of Section 254 of the Federal Communications Act. This procedure shall include a period of notification and comments.

(2) As part of the procedure the Board shall determine:

(i) the support mechanisms needed in the Puerto Rico jurisdiction for expanding or maintaining universal service. The decision to this effect shall be made by a majority of the Board members if the favored mechanism(s) figure among those already utilized in any area under the jurisdictions governed by the Federal Communications Act, or are found among those that were under consideration of the Federal Communications Commission or have been implemented in the various States of the United States of America. The decision to implement any other support mechanism shall require the unanimous vote of the Board members.

(ii) that if it decides that one of the support mechanisms must be the constitution of a fund to underwrite universal service throughout Puerto Rico, its yearly amount shall be equal to the difference between the costs of providing eligible services and the maximum prices that may be charged for same;

(iii) the manner in which the sums contributed through the support

mechanisms to the Universal Service Fund throughout Puerto Rico shall be distributed between the eligible telecommunication companies; and

(iv) the manner in which any other support mechanism throughout Puerto Rico should be established, administered and controlled.

(3) The services to be underwritten by the universal service program in Puerto Rico shall include those services needed to meet particular necessities throughout Puerto Rico, as the Board may establish. In determining the services that shall be included in the definition of universal service, the Board shall consider the recommendations, if any, made by the Federal-State Joint Board established by Section 254(a) of the Federal Communications Act, as well as those services implemented by the various states of the United States of America in their universal service programs.

(4) All telecommunication companies shall contribute to the Universal Service Fund in an equitable, non-discriminatory fashion.

(5) The obligation to contribute to the Universal Service Fund shall commence on the date on which the telecommunication company commences rendering telecommunication services in Puerto Rico and generating income by reason thereof, pursuant to Section 254(f) of the Federal Communications Act.

(6) The Board shall have one hundred eighty (180) days following the date of its constitution to complete the formal procedure provided for the provisions of clause (c)(1) of this Article and to implement universal service. If, after one hundred eighty (180) days, the Board has not fixed the amount to be contributed by the telecommunication companies, it shall on that date fix a provisional contribution to be paid by each telecommunication company until the required amount is finally determined. The amount fixed as a provisional contribution shall be applied retroactively to the effective date hereof, and shall be paid from then on until the Board modifies or replaces it through final, signed and unappealable decision, which must be adopted within the ninety (90) days following the date on which the provisional contribution was fixed. Said amount shall be paid for the first time by every telecommunication company within fifteen (15) days following the date on which the amount is fixed, and from then on, quarterly or as the Board may provide by regulation. Said amounts shall be paid by check, electronic transfer or any other method the Board may provide by regulation.

(7) Once a final determination is adopted regarding the mechanism of

contribution to universal service, the Board shall establish those necessary mechanisms for crediting the sums paid in excess or collecting deficiencies in payments made prior to the date on which said final determination is adopted.

(8) The sums of money contributed by telecommunication companies to the Universal Service Fund through the support mechanisms established by the Board shall be covered into a special account in the Government Development Bank. Said Fund shall be exclusively utilized to help provide, maintain and improve the services in support of which the Fund is created.

(9) Within a year following the constitution of the Board, it shall designate an independent administrator through a bidding process, to administer the sums deposited in the Universal Service account and to supervise their disbursement to eligible telecommunication companies. The entire process of collection, administration, disbursement and use of said monies shall be subject to audits by the Comptroller of Puerto Rico.

(10) The Board shall annually review the total obligation that each telecommunication company has with the Universal Service Fund and in fixing same, it shall take into consideration the recommendations, if any, of the administrator. The decisions that the Board adopted to these effects shall be based on two principal factors:

(i) public interest in expanding and maintaining a modern telecommunication system that is within the grasp of all geographic and social sectors of Puerto Rico, and

(ii) the need of ensure that the criteria utilized in establishing the contribution to the Fund by the companies are viable and uniformly and equitably applied and are neither arbitrary nor discriminatory.

(11) The funds obtained through the mechanism of contributing to the universal service must be used in an efficient manner in order to facilitate the offer of high quality services at the best possible price.

Article 7. - Information on Prices and Charges

(a) Every telecommunication company must submit to the Board a listing of its prices and charges and every time it makes a change to them, it must submit them [to the Board] simultaneously with their implementation in the market.

(b) The Board, at the request of an interested party and by means of a complaint, may evaluate whether the established prices and/or charges are not based on their cost, thus being in