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Federal Communications Commission
Office of Secretary

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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
Common Carrier Bureau Seeks Comment on State Forward-looking Cost Studies for Universal Service Support	)	DA 98-1055; APD No. 98-1

REPLY COMMENTS OF THE TELECOMMUNICATIONS REGULATORY BOARD OF PUERTO RICO

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July 9, 1998

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SUMMARY

The Telecommunications Regulatory Board of Puerto Rico has misgivings about the available model cost study platforms because they do not appear to accurately capture the cost of providing universal service in Puerto Rico. Nevertheless, the Board considers the Benchmark Cost Proxy Model to be the best available option.

Commenters criticize the Board's use of expense ratios based on embedded costs, instead of relying on default values. However, the FCC has not adopted default values for expenses. Rather it will review input values in a forthcoming proceeding. The Board welcomes the FCC review; pending that review, requiring use of default values is arbitrary.

Commenters also argue that the Board's decision adopting the BCPM does not comply with Puerto Rico law. This reflects a misunderstanding of the Board's decision. The Board followed the law, and its own procedures in adopting its Universal Service Regulation.

In the case of Puerto Rico, use of either model is of concern because of the lack of Puerto Rico data. The Board favors a transition plan, as described to the Commission in the Board President's letter of April 22, 1998. This transition plan would provide Universal Service support based upon the existing mechanisms and move toward forward-looking results as improved data and better modeling techniques become available.

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REPLY COMMENTS OF THE
TELECOMMUNICATIONS REGULATORY BOARD OF PUERTO RICO

The Telecommunications Regulatory Board of Puerto Rico ("Board"), by its attorneys, hereby submits its reply comments on the specific universal service cost model filed with the Commission on May 26, 1998, pursuant to the Federal Communications Commission ("FCC" or "Commission") Public Notice DA 98-1005.

I Introduction and Summary

In the Universal Service Order, the Commission provided states and territories the opportunity to file state-specific cost studies to be used in determining the size of the

Universal Service fund.[1] This gave these jurisdictions a meaningful opportunity to "provide valuable assistance" to the Commission's efforts to determine the cost of providing service in specific areas.[2] States electing to submit specific cost studies announced said election by August 15, 1997 and filed studies on May 26, 1998. The Board made its election and submitted the results of its study within these defined timeframes.

Concurrent with its own investigation of forward-looking economic cost for Puerto Rico, the Board has participated in the Commission's reconsideration of that aspect of the Universal Service Order which determined that the Puerto Rico Telephone Company ("PRTC") should be treated as a rural carrier.[3] On April 8, 1998, the Board President Phoebe Forsythe Isales met with Chairman Kennard, and members of the Commission staff. In these discussions, representatives of the Board reported its findings that the two proposed model platforms – the HAI, formerly Hatfield, and Benchmark Cost Proxy Model ("BCPM") – do not appear to accurately capture the cost of providing universal service in Puerto Rico.[4] Subsequent to these meetings, the Board suggested a transition plan for the Commission's consideration that would further the mutual goals of the Board and the Commission in

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1 *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 12 FCC Rcd 8776 (1997) (*Universal Service Order*), as corrected by 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).

2 *Universal Service Order*, para. 247.

3 *Id.*, para. 315.

4 Some of the apparent deficiencies of the existing models result from the poorer quality of data available for study. Of specific note is the acknowledgment of AT&T that HAI is unable to provide reliable support costs for Puerto Rico (Rich Clarke letter to FCC, December 15, 1997).

providing the means for continued development of healthy competition of telecommunications services in Puerto Rico.[5]

Notwithstanding the misgivings the Board has concerning the available model platforms in the near term, the Board considered it valuable to continue the dialogue with the Commission regarding the appropriate long term forward-looking economic cost determination. In submitting its cost study report, the Board recognized that there might be considerable discussion concerning the sensitivity of selected variables on the platform models. The Board supplies these Reply Comments to further that discussion.

II Model Platform: BCPM

Certainly there is a friction between the developers of the BCPM and HAI models. Comments from GTE, Sprint, AT&T and MCI suggest that this heated dialogue continues unabated. The Board examined the two model platforms and notes that it may be impossible to reconcile the two modeling approaches. Nevertheless, given the available options, the Board considers that the BCPM algorithms are more appropriate for use in Puerto Rico. One significant consideration in making this determination is considerable lack of geo-coded location data available for Puerto Rico that would be required for optimal HAI results.

The Board is not alone in adopting BCPM for determining forward-looking economic cost of universal support. The States of Indiana, Montana, Nebraska, North Carolina and South Carolina have selected the BCPM platform in some form. In making its determination as to whether the BCPM platform comports with the criteria established in the

[5] April 22, 1998 letter to Chairman Kennard from President Isales.

Universal Service Order, the Commission should consider the possibility that more than one model may be satisfactory. Given the non-proprietary options for forward-looking economic cost models available to the Board, the BCPM platform still appears to be the best available option.

III Default Values

In their comments, Cellular Communications of Puerto Rico, the Association of Competitive Telecommunications Providers ("ACTP"), and Celpage appear to have a mistaken notion of the results of forward-looking economic cost studies. These commenters appear to believe that in every instance, forward-looking economic cost is going to be lower than embedded cost.[6] The comparison of forward-looking economic cost and embedded cost depends largely on factors such as the life of existing plant-in-service and depreciation reserves attributed to this plant. Moreover, the equip, furnish and install ("EFI") cost for new outside plant equipment and cables can be higher than the actual installation cost for equipment placed in service over decades. All of these factors combined generate the possibility that forward-looking results can be higher than embedded results.

The most strenuous objection of these commenters stems from the Board's use of expense ratios that are based upon embedded costs. In their criticism, they claim that the

[6] A. Daniel Kelley states that "it is simply implausible that a forward-looking study could result in a subsidy requirement that is higher than the current requirement, which has always been based on embedded costs (Declaration at page 8 of ACTP Exhibit A). Mr. Kelley apparently is not aware of the extensive work done by the Ad Hoc Committee of NARUC. Its most recent proposal for modifying the universal service structure acknowledges that forward-looking cost can be higher than embedded cost. In fact, it specifically accounts for this occurrence in its proposal. While the Board is not endorsing the NARUC proposal at this time, the evidence is quite compelling that Mr. Kelley's statement is incorrect; it is quite plausible that a specific area can have forward-looking cost higher than embedded cost. Perhaps Mr. Kelley's work with implausible default values for the HAI platform has led him to this erroneous conclusion.

BCPM platform with user-defined input values fails to estimate "valid" forward-looking economic costs. ACTP suggests that the Board must have failed to apply the criteria established by the Commission because the cost level is higher than the cost level identified by the default values. Instead of using the incumbent costs that have been adjusted downward to capture efficiency gains, the comments of these companies recommend the use of default proxies. In so doing, they fail to realize that the FCC has not adopted the default proxy values for expenses. We believe that if the FCC were to adopt one of the existing proposed models, it would revise upward the current default input values proposed by the modelers. Moreover, it is disingenuous to criticize downward-revised embedded expense ratios for not complying with the forward-looking expense criteria and then promote default values. The default values are themselves simply an average of embedded costs from selected RBOCs.[7] Thus the question remains: what is an appropriate level for expense ratios in a forward-looking model? The comments in this proceeding have not yet answered this question. The Board considers a 10 percent reduction of embedded costs, as used in its submission, to be an appropriate initial level of expense when compared to the alternative of default values.[8]

Until the FCC begins its new review of input values, which is to begin this summer, it would be premature for any state to adopt default values for expense ratios. The Board

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[7] *Sprint*, page 4, states that BCPM defaults are based on expense levels of several large incumbent local exchange carriers. Other parties confirm that default values are based upon ILEC costs.

[8] The Board notes that the default values for the platform models are rudimentary. For instance, the default values for Part 32 Accounts 6421, 6422 and 6423 (Cable and Wire Maintenance Expense) are zero. This would indicate that the model does not allow for maintenance of outside-plant when using default values. The Board vigorously rejects the assumption that the model should build the network but not provide for maintenance of the network.

awaits this review because it believes that this investigation will benefit all Universal Service models. Until the issue of the appropriate use of forward-looking expense ratios has an adequate foundation in the record, the Board will remain apprehensive regarding the submission of model results and skeptical toward default values that are themselves based upon embedded cost. The Board so indicated in its letter to the FCC. The Board stated that none of the current models, BCPM or HAI, are ready to "provide a proper foundation for public policy."

The comment that "states are forbidden to rely on an incumbent local exchange carrier's embedded costs in establishing universal service support estimates" deserves response.[9] This strict interpretation of embedded cost will prohibit the use of default expense ratios because they are also based upon embedded costs of LECs. Thus the comment reveals a primitive understanding of how default expense ratios have been developed in the two proposed platforms.

The Board did not use historical costs in the sense implied by some respondents.[10] The Board examined the ratio of expense to actual investments, adjusted these ratios downward by ten-percent and applied these expense ratios to forward-looking investment in the standard BCPM method. ACTP claims that the Board used a "modified" version of the BCPM. In fact the Board used the BCPM platform with adjustments to user-defined inputs.

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9 *Centennial Cellular*, page 7.

10 Sometimes the use of historical or embedded costs refers to the investment of equipment and materials. The Board did not use historical investment to determine forward-looking investment. The Board used historical expenses and investments to develop an island specific expense ratio to be applied to forward-looking investment. It then adjusted this ratio downward by ten-percent to acknowledge presumed efficiency gains that will result as competition develops.

The ten-percent reduction in the expense ratio reflects an attempt to address the efficiency gains anticipated by the Board as competition develops. The Board welcomes the FCC review of appropriate input values later this year and reserves the right to make considered alterations after these deliberations.

Until then, simply adopting default values is arbitrary and without the proper foundation before the FCC.

IV Additional Comments

Celpage

Celpage specifically alleges that the Board has sought to "insure a higher number" than embedded high cost support currently received and "reverse engineer" the USF formula. These allegations are groundless and do not reflect the intentions of the Board. Celpage also alleges that the Board used "guesswork" in this submission to the FCC. Contrary to the Celpage allegations, the Board specifically cited and documented the information that it used for applying Puerto Rico specific input values.

Lastly, both Celpage and the declaration of Kelley claim that the Board erred in using total company expense to investment ratios. In developing expense ratios, the Board used embedded expenses and investments. The development of these ratios was based upon a total company basis. Removing portions of the expense – the numerator in this calculation – without a corresponding removal of the investment in the denominator would not yield a correct expense ratio. The Board applied the total company expense ratio to investment percentages to forward-looking investment developed by the BCPM. As mentioned

previously, the Board is willing to entertain alterations to these expense ratios based upon the yet to be held FCC proceeding on input values.

ACTP and A. Daniel Kelley

ACTP hired Mr. Kelley to review the Board's submission. Several comments of Mr. Kelley's have been responded to in preceding sections; however, some comments merit additional response:

1. Mr. Kelley suggests that because density is a key factor in determining economic cost, Puerto Rico cost should be lower than average. However, Puerto Rico has "large, sparsely populated areas separating major cities and towns".[11] Thus the geography of Puerto Rico does not conform to Mr. Kelley's suggestion that Puerto Rico has high density throughout the island. A more detailed examination of Puerto Rico suggests that while density may be an important factor generally, there are other considerations that must be taken into account. Sparse population between a few major cities and towns is such a consideration.

2. Geographic factors unique to Puerto Rico cannot be easily dismissed. Mr. Kelley suggests that RBOCs have the same "character" in the "intermountain region" as does Puerto Rico. The Board sees no value in this unsupported statement and welcomes a more specific comparison between Puerto Rico and the mountain West.

3. Mr. Kelley suggests that the ownership of PRTC plays a role in determining the appropriate cost of capital for the model. The Board respectfully disagrees with this view. The universal service models attempt to compute the cost of providing telecommunications service to a specific area with the most efficient technology available. This means that to the greatest extent possible, the model should be neutral insofar as specific companies are concerned. Ownership of the ILEC is not a concern in the universal service model. The Board acknowledges that it has used modified PRTC data to attempt to determine appropriate expense percentages. However, the issue of ownership of PRTC does not address the portable universal service needs of competitive entrants who have been and will be designated eligible

[11] *Centennial Cellular*, page 5.

> telecommunications carriers (as defined by the Telecommunications Act of 1996, Section 214(e)). Therefore, the Board encourages the FCC to reject the adjustments suggested by Mr. Kelley in this matter.

Cellular Communications

Cellular Communications of Puerto Rico provided comments reinforcing ACTP's positions. These issues have been addressed in preceding sections. However, the Board notes that CCPR alleges the "Board is willing to sacrifice all telecommunications competition on the island to ensure that the Commonwealth continues to receive universal service funding at current or higher levels"[12] This allegation is completely false. CCPR itself has been involved in Board arbitration that directly improved competition on the island. Further, the Board has designated several carriers as eligible telecommunications carriers for the purpose of providing universal service support to all qualifying carriers. The Board must exercise restraint in addressing comments that grossly distort the actual facts. It is regrettable that such comments are made by companies in Puerto Rico that are directly benefiting from specific Board actions that promote competition.

Centennial Cellular Corp.

Centennial Cellular addressed specific items of concern in its comments. Centennial would like island-wide local calling – thereby affecting the local and toll ratios used in the model. However, the Board used actual toll and local traffic ratios that have been adopted by the FCC in PRTC's interstate tariff filing. Not even Centennial has adopted the creation of island-wide local calling. The Board suggests to the FCC that actual local and toll traffic ratios are appropriate for use in Puerto Rico.

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[12] *CCPR*, page 5.

V Puerto Rico Law and Guidelines

Celpage argues that the Board's decision adopting the BCPM violates the Puerto Rico Telecommunications Act of 1996, the Uniform Administrative Procedure Act of Puerto Rico, and the Board's General Practice Regulation. Celpage supports its statements based on Article 6, Chapter II of the Puerto Rico Telecommunications Act. Celpage errs in its interpretation of this Article.

Article 6 establishes that the Board should initiate the creation of a universal service support mechanism throughout Puerto Rico. (See Exhibit A, copy of the pertinent provisions of the Act). Celpage mistakenly equates the economic model and the universal service support mechanism and thus concludes that the model's approval should follow the procedures established by Article 6.

Article 6(c)(1) establishes that the procedure to incorporate the support mechanism for universal service in Puerto Rico ("Universal Service Regulation") should be formal and shall include a period for notice and comments. In addition, Article 6(c)(2) establishes that the decision determining support mechanisms shall be made by the majority of the members of the Board, if it favored an economic model already considered by the FCC. Any other economic model established in the regulation shall require the unanimous vote of the members of the Board.

Subchapter II of the Uniform Administrative Procedure Act of Puerto Rico establishes the procedure for the adoption, amendment or repeal of a regulation. Section 2121 requires the publication of a notice of said action in a newspaper of general

circulation, and Section 2122 provides for an opportunity for the public to submit comments in writing during a term of thirty (30) days. Section 10 of the Board's General Practice and Procedure Regulation adopts the same procedure above mentioned for the adoption of regulations.

In conformity with the preceding statutes, the Board tentatively approved the Universal Service Regulation[13] and, on November 6, 1997, a notice was published in El Vocero newspaper, informing the general public of their right to submit comments within thirty (30) days (Exhibit B, copy of the newspaper notice). Additionally, the Board notified the telecommunications companies in Puerto Rico, via certified mail, of the proposed regulation. The following companies submitted comments: (i) ACPT; (ii) PanAm Wireless, Inc. (doing business as Celpage); (iii) Sprint International Caribe, Inc. and Sprint Communications Company, L.P.; (iv) MCI International, Inc.; (v) Insti-Call Answering Service, Inc.; (vi) Telefonos Publicos de Puerto Rico; (vii) Puerto Rico Telephone Company; (viii) KMC Telecom, Inc.; (ix) Centennial Cellular Corp.; and (x) AT&T of Puerto Rico, Inc. After examining all the comments submitted, the Board, on January 28, 1998, issued a Resolution, adopting, rejecting, and commenting on all the proposed amendments and comments. On the same date, the Board unanimously adopted the final Universal Service Regulation. On February 17, 1998, in compliance with the Uniform Administrative Procedure Act and the Board's regulations, the Board filed the Universal Service Regulation

[13] The Board created a committee composed of various telecommunications companies in Puerto Rico, including Celpage, which, for a period of approximately three months, worked in conjunction with the Board in the development and drafting of this Regulation.

in the Puerto Rico State Department. Thirty days after its filing in the State Department, the Regulation became effective.

In its comments to the Board regarding the Universal Service Regulation proposal, Celpage proposed that the process of developing an economic model should be an open one, where all telecommunications companies could participate, and that all cost information pertaining to PRTC be provided to them. The comments submitted by Celpage did not argue that such a process was required by the Puerto Rico Telecommunications Act. The Board rejected this proposal and indicated that once the economic model is approved by the FCC, it would be opened to comments and inspection, and all pertaining documentation and numbers would be available for public inspection. Celpage did not file a Reconsideration of the Board's decision, nor appealed the decision to the Puerto Rico's Circuit of Appeals.

It is clear that the Board followed the procedures established in the law regarding the adoption of regulations, and that the public, including Celpage, had ample opportunity to express themselves regarding said regulation.

Article 22 of the Universal Service Regulation establishes the economic model to be used in Puerto Rico, although it does not contain the numbers or results of the model to be used. The Universal Services Regulation does not establish or require any mechanism for the adoption of the final economic model. Regulations are basic rules that govern the actions of administrative entities. The Universal Service Regulation is not directed to the establishment of a specific economic model, but to a general norm which will govern the adoption, establishment and implementation of the Universal Service support mechanism.

Furthermore, at this stage the Board has submitted the proposed economic model for Puerto Rico to the FCC. The process for comments regarding the specific aspects and details of the model is and should be debated at the FCC. Celpage, as well as other parties, had the opportunity to comment on Article 22 of the Universal Service Regulation and now they have the opportunity to comment on the specifics of the model.

The alleged haste which Celpage refers to represents the Board's uneasiness with the model's implementation to the reality of Puerto Rico. The Board has always sustained that both of the models under consideration by the FCC do not faithfully represent Puerto Rico's economic and market conditions. Thus, this is why the President of the Board stated: "We submit this report with misgivings."

Contrary to the allegation posed by Celpage, the Board response to the FCC request is completely adequate. The Board chose not to print the volumes of BCPM platform algorithms and input values because it knows that all interested parties have access to the BCPM platform and the default values. The user-defined input values that were changed, were specifically tabulated and referenced in the material sent to the FCC. Furthermore, the Board has made available an electronic version of the BCPM model, as well as the user defined input values to the FCC. The Board response in these aspects is satisfactory.

VI Puerto Rico Universal Service

Several comments refer to very large state-specific surcharges. Celpage and ACTP refer to a Puerto Rico "tax" of over 20 percent. Comments of this type are quite alarming. The Board has not yet addressed the state specific contribution to universal service. The

FCC is reconsidering the jurisdictional division of universal service – also known as the 75:25 issue – and since the matter is not yet settled, the Board has not addressed the issue. The Board notes that the FCC has undertaken its reconsideration in part because of the very large state-specific contributions imposed based upon the 75-25 distribution of contribution.

The Board is in favor of a transition plan that would provide support based upon existing programs and move toward forward-looking results as improved data and better modeling techniques become available. Several parties in these comments have suggested specific transition steps. The Board welcomes a review of these procedures as well as a review of its suggested procedures for transition. The Board considers its collaborative work with the FCC to be healthy and productive. Contrary to some comments, the Board continues to work with the FCC in making the prospects of competition and universal service a reality for residents of Puerto Rico.

VII Conclusion

For these reasons, the Telecommunications Regulatory Board of Puerto Rico submits that its economic cost study complies with the criteria in the Universal Service Order and the Commission should so find.

Respectfully submitted,

TELECOMMUNICATIONS REGULATORY
BOARD OF PUERTO RICO

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Dated: July 9, 1998

EXHIBIT A

(S. B. 1500)
(Conference)

(No. 213)

(Approved September 12, 1996)

AN ACT

To create the Telecommunications Regulatory Board of Puerto Rico, establish its powers and prerogatives, and provide for its organization; to repeal Act No. 64 of August 23, 1990, as amended; to establish the public policy of the Government of Puerto Rico concerning telecommunications; and for other purposes.

STATEMENT OF MOTIVES

After having investigated, analyzed, and determined the needs and interests of the people of Puerto Rico regarding the development of the telecommunications field, and taking into account the action taken by the Federal Government with regard to the extent and applicability of these services to the general public by enacting the Federal Communications Act of 1996, this Legislature has determined that it is essential to establish a Board that fosters total, equal, and fair competition in telecommunications, and to promote and facilitate the construction and development of telecommunications facilities, in order to allow and ensure for the people of Puerto Rico, better and more varied telecommunications services at reasonable rates, in order to promote the economic development for the general welfare of our Island.

With this objective in mind, this Act creates the Telecommunications Regulatory Board of Puerto Rico, with the powers and prerogatives needed to establish a regulatory code that: (1) ensures the availability of universal

reasonable and nondiscriminatory fee to the parties to the agreement or to the party filing the statement to recover the costs of approving and filing such agreements or statements.

(i) Availability to Other Telecommunications Carriers.- A local exchange service carrier shall make available any interconnection, service, or access to a network element provided under an agreement approved under this Section of which it is a party, to any other requesting telecommunications carrier, under the same terms and conditions as those provided in said agreement.

(j) Definition of Incumbent Local Exchange Service Carrier.- For the purposes of this Section, the term 'incumbent local exchange service carrier' has the meaning provided in subsection (b) of Section 3. Chapter I of this Act.

Section 6.- Universal Service.

(a) Universal Service Principles.

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

(i) The goal of universal service is to provide comparable quality telecommunications services to all sectors of the population and geographical areas of Puerto Rico.

(ii) Telecommunications services shall be available throughout Puerto Rico at fair and reasonable rates, which means that the service rates in rural areas shall be reasonably comparable to those rates provided in urban areas.

(iii) Advanced telecommunications services shall be available in all municipalities and communities, as well as in all health care providers facilities, libraries and classrooms in the public schools of Puerto Rico.

(2) All telecommunications companies shall make an equitable and nondiscriminatory contribution, as established by the Board, for the preservation and development of universal services in Puerto Rico.

(3) The structure of those support mechanisms developed, implemented and periodically reviewed by the Board shall complement but not duplicate the support mechanisms established at federal level.

(4) Universal service shall include the following services as a minimum without excluding any other service, as provided by the Board pursuant to subsection (c)(3) of this Section:

(i) access to all public switched telephone networks with voice grade capacity;

(ii) single party service;

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

(iv) access to operator services.

(b) Determination of eligible telecommunications companies.

(1) The Board may, *motu proprio* or by petition, designate a telecommunications company as an eligible telecommunications company to provide universal service in one or more areas designated by the Board. On petition, and pursuant to the public interest, convenience and need, the Board may designate more than one company as an eligible telecommunications company for a service area established by the Board, provided each company meets the requirements of subsection (b)(2) of this Section. In order to make the corresponding designation, the Board shall take into consideration, among other factors, technological factors and the cost of providing the service.

(2) In order for a telecommunications company to be designated as a telecommunications company eligible to receive the universal service

program funds, it shall, within the entire service area for which it has been designated:

(i) provide the services supported by the universal service program using its own facilities or a combination of its own facilities and the resale of services of another telecommunications company; and

(ii) publish in newspapers of general circulation the availability of such services and their rates.

(3) If no telecommunications company which receive funds from the universal service program wishes to, or is able to provide services to a community, or any part thereof, which has so requested them, the Board shall determine which telecommunications company or companies are in the best position to provide such service and shall order the corresponding procedures. Any telecommunications company which has been directed to provide services under to this subsection must comply with the requirements of subsection (b)(2) of this Section, and shall be designated as an eligible telecommunications company for such community or part thereof.

(4) The Board may allow an eligible telecommunications company, through a previous authorization from the Board, to surrender its designation in any area covered by more than one eligible telecommunications company. Before granting the authorization, the Board shall impose upon the remaining eligible telecommunications companies, the obligation to guarantee the service to the users of the eligible telecommunications company which withdraws, and shall require sufficient notice to allow the purchase or construction of proper facilities by any other eligible telecommunications company. The costs and expenses incurred by the telecommunications companies to provide eligible services shall be reimbursed to them through the universal service support procedures. The Board shall establish a period of time, which

shall not exceed one year after the approval of such withdrawal under this subsection, to complete the purchase or construction.

(c) Universal Service Procedures.

(1) Within one hundred and twenty (120) days following the establishment of the Board, the aforesaid shall initiate a formal procedure to incorporate the support mechanisms to the universal service throughout Puerto Rico. As part of this procedure, the Board shall take into consideration the report, if any, submitted by the Federal State Board created by virtue of Section 254 of the Federal Communications Act. This procedure shall include a period for notice and comments.

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

(i). the support mechanisms needed in the jurisdiction of Puerto Rico to extend or maintain the universal service. The decision to such effects shall be made by the majority of the members of the Board if the favored mechanism or mechanisms are included among those already being used in any area under the jurisdictions governed by the Federal Communications Act, or are among those under the consideration of the Federal Communications Commission or have been implemented in the different States of the United States of America. The decision to implement any other support mechanism shall require the unanimous vote of the members of the Board.

(ii) should it be determined that one of the support mechanisms should be the establishment of a fund to defray universal service throughout Puerto Rico, the annual sum thereof shall be equal to the difference between the cost of providing the eligible services and the maximum rates that can be charged for the same;

(iii) the manner that monetary contributions made through the support mechanisms to the universal service fund throughout Puerto Rico, shall be distributed among the eligible telecommunications companies; and

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

(3) The services to be defrayed by the universal service program in Puerto Rico shall include those services needed to deal with the particular needs throughout Puerto Rico, as established by the Board. In the determination of the services that shall be included in the definition of universal service, the Board shall take into consideration 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 different states of the United States of America in their respective universal service programs.

(4) All telecommunications companies shall make equitable and nondiscriminatory contributions to the universal service fund.

(5) The obligation to contribute to the Universal Service Fund shall begin on the date the telecommunications company begins to render telecommunications services in Puerto Rico and to generate income from such services, pursuant to Section 254(f) of the Federal Communications Act.

(6) The Board shall have one hundred and eighty (180) days from the date of its constitution, to complete the formal procedure provided by subsection (c)(1) of this Section, and to implement universal service. If after one hundred and eighty (180) days the Board has not fixed the amount to be contributed by the telecommunications companies, the former shall fix a sum on that date as the provisional contribution to be paid by each telecommunications company until the amount to be required is finally determined. The amount fixed as a provisional contribution shall apply retroactively to the effective date of this Act, and shall be paid henceforth until the Board modifies or replaces it, through a final, binding and unappealable decision, which shall be adopted within ninety (90) days following the date on which the provisional contribution was fixed. Said

amount shall be paid for the first time by each telecommunications company, within fifteen (15) days following the date on which the sum is fixed, and henceforth, shall be paid quarterly, or as provided by the Board through regulations. Said amounts shall be paid by check, electronic transfer, or through any other means provided by the Board through regulations.

(7) Once a final determination is adopted regarding the mechanism to contribute to the universal service, the Board shall establish those measures needed to give credit for the sums paid in excess, or to collect deficiencies in the payments made prior to the date on which said final determination is adopted.

(8) The sums of money contributed by the telecommunications 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 used exclusively to help to render, maintain and improve the services in support of which the Fund is created.

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

(10) The Board shall review the amount of the obligation that each telecommunications company has with the universal service fund, annually, and when fixing it, shall take into consideration the recommendations, if any, of the administrator. The decisions that the Board adopts to such effects shall be based on two principal factors: