

Comments on )  
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Joint Board ) CC Docket No. 96-45  
 ) DA 98-2410  
*Second Recommended Decision* )  
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**Comments of  
Harris, Skrivan & Associates LLC  
On the Joint Board's Recommended Decision**

**December 23, 1998**

**Introduction**

Harris Skrivan & Associates, LLC (HSA) provides financial and regulatory services to both rural and non-rural Independent Local Exchange Carriers throughout the United States. These comments represent the position of HSA on behalf of its clients.

**Use of a proxy model**

A great amount of resources in both time and money have been expended in an attempt to develop a proxy model. The Joint Board Recommended Decision recommends that the Commission's Cost Proxy Model be used for federal universal service support, even though inputs have not been established nor have estimated results been published. However, the most serious flaw in the use of this model is the inability of the public to use it. To date, the model requires access to proprietary data on the geo-coded location of subscribers throughout the United States. This data has not been made available to the public except through prohibitively expensive licensing fees.

The Joint Board recommends that the forward looking economic costs (FLEC) for each Incumbent LEC study area be compared to the national average FLEC. Study areas which exceed a threshold (such as 15% to 50% above the average) would receive funding. It is not clear that use of FLEC studies for this test would produce significantly different results than comparing the study area actual embedded cost to the national average embedded costs. Based on the Joint Board's change in procedures, we recommend that the Commission investigate the feasibility of continuing the use of embedded costs to establish universal service funding amounts.

The Joint Board recommends that the Commission's cost proxy model only be applied to non-rural telephone companies and not be used as precedent for establishing universal service for rural telephone companies. However, while we agree with this recommended policy, we think it is unrealistic to think that the model adopted for use for non-rural companies will not also be used for rural companies. For example, many of the rules adopted for price cap companies in the FCC's Access Reform proceeding have been proposed for adoption by non-price cap companies.

Many millions of dollars of resources have been used in the development of the BCPM, HAI and Commission cost proxy models. Similar resources are not available to rural telephone companies to develop a realistic alternative for rural carriers. While the Rural Task Force (RTF) has been asked to investigate an alternative, no funding has been made available to the RTF to even examine the proposed model, much less develop an alternative!

Inputs have yet to be decided upon and the results of this model are unknown. The Commission must still decide how the inputs to the proxy model will be determined. And, there will be no opportunity to review the final results of the model after the inputs are selected.

Based upon these facts we cannot help but be skeptical of the results of the model. Numerous issues need to be resolved before a forward-looking model can be reasonably

implemented. Therefore, we recommend that the Commission reject the proxy model and rely on existing methodology based upon embedded costs.

### **“Affordability” and “Reasonably Comparable”**

The focus of the Second Recommended Decision is on the impact of Universal Service policy and rules on the continued affordability and reasonably comparable rates.

Even though the Act does not define reasonably comparable rates, the Joint Board, through the Second Recommended Decision, interprets the term to refer to a “fair range of urban and rural rates both within a state’s borders, and among states nationwide”. However, since no inputs to the proxy model have been defined and no results evaluated, the Joint Board is not in a position to establish a fair range. That is why the Joint Board is forced to provide unreasonably broad guidelines, such as paying support for costs exceeding the national average by 15% to 50% (a range of 333%) and suggesting a state assessment cap of 3% to 6% ( a range of 100%).

The Communications Act requires that consumers have access to rates and services “in rural, insular and high cost areas” that are “reasonably comparable” to rates and services in urban areas. Absent any proxy model output for consideration, the Joint Board cannot be confident that the rates are reasonably comparable. Prior to moving forward with proxy models, benchmark costs, affordability targets and state assessment rates, the Commission should establish and define the final parameters for the proxy model in order to ensure reasonable comparability.

### **The Two-Step Process**

The two-step methodology proposed by the decision is flawed. The major problem with the Joint Board proposal is that the Commission would transfer a significant portion of its funding responsibility (even under the proposed “hold harmless” provisions) to State Commissions. First, this is poor policy because the States already have state universal service funding programs with

which to deal. Second, the timing required for State Commissions to establish the necessary rules and procedures, assuming even accelerated procedural schedules, would put implementation far beyond the scheduled date of July 1, 1999. Further, many states may be required to make legislative changes before the State Commission has the authority to implement such recommendations.

### **Hold Harmless Provisions**

The Joint Board recommends that non-rural carriers' support not be reduced. It further recommends that the overall funding level not increase. The combination of these two recommendations means that either non-rural carriers' existing support is frozen or that it will increase and the support available to rural carriers will decrease. If the non-rural funding is frozen, the proxy model process becomes meaningless, unless the proxy model results are used to allocate existing study area costs between rural and urban areas as requested by the Washington Utility and Transportation Commission for rural LECs. If the rural funding is reduced, it will harm those consumers which are supposed to be protected by Universal Service provisions.

### **Summary**

We support Congress' commitment to ensuring that rural, insular, and high cost customers are protected.

We do not believe that use of forward looking economic costs is an improvement over the existing universal service methodology. Until a reliable and publicly available model with realistic inputs is developed, the current mechanism should continue.

We believe that the Commission and the rest of the Industry should acknowledge that the process implemented for non-rural carriers will, in spite of various protests to the contrary, be a

strong precedent for rural carriers. The only practical alternative is to provide significant funding to the Rural Task Force in its efforts to develop an effective alternative for rural companies.

The “hold harmless” provisions of the Recommended Decision, when contrasted with the recommendation not to increase the overall size of the fund, make the entire proxy model process a meaningless exercise since current funding levels will be effectively frozen.

We support the healthy and constructive dialog between federal and state regulators with different perspectives on high cost universal service. However, we fear The Second Recommended Decision points the industry, particularly the rural carriers, in the direction of more modeling, more price regulation and more Universal Service uncertainty.

Respectfully Submitted,

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