

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Further Notice of Proposed Rulemaking) CC Docket 96-45
Interim Reporting Guidelines for FCC)
Form 457, Universal Service Worksheet)

COMMENTS OF GTE

Dated: January 11, 1999

GTE Service Corporation and its designated
affiliated domestic companies

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GTE Service Corporation and its designated affiliated domestic companies¹ (collectively, "GTE") respectfully respond to the Further Notice of Proposed Rule Making ("Notice") in the above-captioned proceeding.² In the Notice, the Commission seeks comment on interim and proposed guidelines for telecommunications providers that cannot easily derive interstate and intrastate revenue data directly from their books of account to complete FCC Form 457, the Universal Service Worksheet, and other matters that may affect these carriers including Western Wireless' Petition For Clarification or Rulemaking.

¹ These comments are filed on behalf of GTE's affiliated domestic telephone operating companies, GTE Wireless Incorporated, and GTE Communications Corporation. GTE's domestic telephone operating companies are: GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., and Contel of the South, Inc.

² GTE offers these Comments without prejudice its positions set forth with respect to the pending petitions for review of the Commission's universal service order. *Texas Office of Public Utility Counsel v. F.C.C.*, No. 97-60421 (5th Cir.)

I. INTRODUCTION AND SUMMARY

In the Notice, the Commission grapples with some of the difficulties created by its previous decision to base contributions to federal universal service mechanisms on interstate retail revenue. GTE supports the Joint Board's recent recommendation to establish a non-jurisdictional universal service assessment and recovery base on both interstate and intrastate revenues for all carriers. The use of combined revenue will allow the funding base to be larger, minimizing the economic distortion caused by the need to fund universal service. This approach would also eliminate the concerns the Commission seeks to address in the Notice. It would obviate the need to separate carriers' revenues between state and interstate for universal service contribution purposes. By doing so, it would also eliminate the administrative burden of attempting to measure revenue by jurisdiction, and the incentives for misreporting such revenues. It would similarly help to ensure that the federal universal service plan is competitively neutral, by eliminating all of the possible sources of competitive bias created by the attempt to separate revenues by jurisdiction.

It is not clear why a wireless carrier whose serving area happens to straddle a state line should contribute more toward the national goal of universal service than another carrier whose otherwise identical area is contained entirely within one state. Rather than expend real resources trying to measure this difference, the Commission should simply adopt a funding base of combined state and interstate retail revenue.

In the event the Commission does not adopt the Joint Board's recommendation to establish a non-jurisdictional funding base, GTE is not opposed to the establishment of an industry standard "safe harbor" interstate factor for purposes of reporting interstate retail revenues. The use of such a factor will allow carriers to choose to avoid

expending resources on costly and burdensome measurement studies. The use of a standard percentage will also mitigate incentives for misreporting. In order to derive its "safe harbor" estimate for the paging and SMR industries, the Commission relied upon the average of the estimates reported to the Commission by the industry. GTE recommends that the same approach should be used for all wireless carriers to estimate the "safe harbor" percentage for wireless carriers. This would produce a "safe harbor" percentage of about 8 percent, not 15 percent as the Commission has proposed.

The Notice also seeks comment on the minimum amount of local usage that an Eitel must include in its basic service offering. Today, different carriers with different cost structures offer a wide array of products that contain unlimited local calling, minimum call allowances and measured service with no call allowance. Rather than focusing on whether the customer receives an usage allowance as part of a flat rated service or attempting to regulate the carriers' price structures (flat vs. measured), GTE submits that the Commission should determine how much usage a customer should be able to buy at an affordable price.

The Commission should decide how many minutes of usage to include in its basic service definition. The Commission should require, as a condition for receiving funds, that an Eitel must offer at least one basic service package that (1) meets the definition of basic local service, and (2) is offered at a price no higher than the rate found by the state commission to be "affordable" in that area. To determine whether the service meets the definition, the Commission would ask whether the customer could purchase the service and the defined amount of usage for an amount no greater than

the affordable rate. Such a requirement would ensure that each customer has access to a minimum amount of usage at an affordable price, yet would allow carriers a greater degree of flexibility in offering different service packages with different combinations of flat rates and usage prices.

GTE further recommends that if an Eltel offers at least one service package that meets the affordability requirement, then any service package offered by that carrier that also meets the basic local service definition should also be supported. In this way, the Commission would ensure that the support provided will not artificially distort the customers' choices of service package or technology.

Finally, GTE recognizes that Western Wireless raises a valid concern regarding the frequency with which Etlers may participate in the distribution of universal service support. GTE does not, however, believe that the Commission should adopt Western Wireless' recommendation to address this concern. As an alternative to Western Wireless' proposal, GTE suggests that the Commission establish a per-line support amount based on the ILEC's annual filing, and then allow any Eltel to claim funding by filing quarterly updates to the line count it reports to USAC.

II. THE COMMISSION SHOULD ADOPT A NON-JURISDICTIONAL UNIVERSAL SERVICE ASSESSMENT AND RECOVERY BASE FOR ALL CARRIERS.

GTE and many other parties have urged the Commission to base contributions to the universal service funding mechanisms -- and individual companies' recovery of those contributions -- on both interstate and intrastate retail revenues.³ Basing

³ In the Matter of Universal Service Federal-State Joint Board's Second Recommended Decision, CC Docket No. 96-45, DA 98-2410. GTE Comments, December 23, 1998 at 30; see also US West at 15, AT&T at 6, BellSouth at 9, GSA at 6.

contributions on total retail revenue will provide the largest possible funding base, and hence the lowest, and least distorting, contribution rate. It would eliminate the burden of separating carriers' revenues between jurisdictions for universal service purposes. And it would eliminate any incentive to misreport the proportion of a carrier's revenues that are interstate. The Commission has already determined that it has the authority to use a base of combined state and interstate revenues.⁴ In its Second Recommended Decision,⁵ the Joint Board once again, citing the same reasons given here, endorsed the use of combined retail revenues as the funding base for all carriers' contributions to the federal mechanism. The Commission should act on the Joint Board's recommendation, and should adopt a funding base of combined state and interstate retail revenues for the new nonrural federal funding plan to be implemented in July, 1999, as well as for the other existing federal universal service mechanisms.

In the present Notice, the Commission grapples with some of the problems which are inherent in any plan that relies on interstate revenues alone as a funding base. Any attempt to estimate the jurisdictional nature of wireless traffic will be costly and burdensome to carriers. Regardless of the effort expended, such estimates will never be particularly accurate, and the incentives for misreporting will always be present. Rather than expend real resources to improve the "accuracy" of this exercise, the

⁴ In the Matter of Federal-State Joint Board on Universal Service, Forward- Looking Mechanism for High Cost Support for Non-Rural LECs, Report and Order, CC Docket No. 96-45, *Report and Order*, FCC 97-157, 12 FCC Rcd 8776, 9189 (1997) ("Universal Service Order"), at ¶807.

⁵ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Second Recommended Decision*, FCC 98J-7 (released November 25, 1998), at ¶63.

Commission should instead adopt a funding base of total retail revenues, both state and interstate. This approach will provide the most efficient and economically rational outcome. It also happens to render moot the issues of jurisdictional measurement raised in the Notice.

III. IF A JURISDICTIONAL SPLIT OF REVENUES IS NECESSARY, THE COMMISSION SHOULD ADOPT A "SAFE HARBOR" PERCENTAGE BASED ON THE INDUSTRY AVERAGE OF REPORTED INTERSTATE REVENUE.

While GTE believes that the Commission should adopt a contribution and a recovery mechanism that is based upon both interstate and intrastate retail revenues, in the event that the Commission does not do so, GTE is not opposed to the establishment of a standard "safe harbor" factor to reflect the interstate portion of wireless carriers' retail revenues. As the Commission recognizes, CMRS traffic operates inherently without regard to traditional state boundaries. The jurisdictional nature of CMRS traffic is further clouded by the fact that different CMRS licensees have incongruous boundaries. For instance, a PCS carrier's single MTA might cross state boundaries, whereas a competing cellular carrier's MSA boundaries do not. To compound matters, CMRS carriers do not regularly keep track of the jurisdictional nature of their traffic, nor in most cases, do their systems enable them with specificity to do so.

The use of a "safe harbor" does not obviate any of the inherent difficulties of measurement; however, the use of the "safe harbor" mechanism will allow wireless carriers to avoid expending resources on measurement, if they choose not to do so. Further, the use of a standard percentage will largely mitigate the incentive concerns raised in the Notice. Finally, the use of a standard percentage will reduce the possibility that the plan would treat different wireless carriers in an inconsistent manner that is not competitively neutral.

These reasons are sufficient to justify the adoption of a "safe harbor" percentage in the event that the Commission decides to base contributions on interstate revenues. GTE would, however, support the option discussed in the Notice that would give wireless carriers the opportunity to use the Commission-established percentage or to provide their own studies to demonstrate to the Commission the percentage that should be used.⁶

While GTE recognizes that there is presently no accurate method available to the Commission for establishing the "safe harbor" percentage, it is reasonable to choose the most representative number possible. GTE does not believe that the 15 percent "safe harbor" interstate factor that the Commission has proposed as the fixed factor for cellular and PCS carriers adequately represents the amount of cellular and PCS traffic that should be attributed to the interstate jurisdiction. Based on very rough calculations that approximate the percentage of its interstate traffic, it is GTE's experience that the actual share of its interstate cellular and PCS traffic might be less than half of the Commission's proposed 15 percent proxy. GTE believes that basing the fixed factor on the percentage of interstate wireline traffic reported for purposes of the Dial Equipment Minutes (DEM) weighting program is inappropriate. The assumption in the Notice that wireline data might be representative of wireless traffic is precisely that – an assumption.

Because basing the 15 percent on wireline traffic balances is arbitrary and does not reflect GTE's estimated balance of cellular and PCS traffic, GTE recommends that the Commission adopt an interstate factor based on the same methodology suggested

⁶ Notice at ¶25.

in the Notice for paging and SMR providers, which was "based on the average interstate revenues percentage reported by those carriers in 1998."⁷ Based on the Commission's own Telecommunications Industry Revenue Report for 1997 which was released October 1998, Wireless Carriers reported about 7.7 percent of their retail revenue as interstate. The proposed "safe harbor" factor of 15 percent is almost twice this amount. While GTE has not conducted extensive studies,⁸ a range of 4 to 8 percent appears to be realistic based on its own rough traffic studies.⁹

In the Notice, the Commission states that it lacks evidence to suggest that the percentage of interstate traffic for wireless carriers should be less than the 15% figure reported by ILECs.¹⁰ But the Commission does have such evidence in the form of the reports submitted by the wireless carriers. However imperfect these data may be, they should not simply be disregarded in favor of the assumption that the same traffic patterns hold for wireless as for wireline. The Commission notes its concern over the wide range of percentages submitted by different wireless carriers, a concern that can be addressed by adopting the weighted mean of the reported values as a safe harbor

⁷ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 98-278 (released October 26, 1998), at ¶20.

⁸ Letter from Carol L. Bjelland, GTE, to William F. Caton, FCC, CC Docket No. 96-45, dated July 11, 1997. GTE Wireless discussed the difficulty it encounters in trying to classify calls as either interstate or intrastate.

⁹ While these studies did not account for the transient nature of mobile calls or any of the other clarifying assumptions that the Commission proposes in the Notice, GTE did attempt to account for geographic variation by selecting two different states to study based on expected high and low interstate usage patterns.

¹⁰ Notice at ¶20.

percentage. The Commission also notes that certain cellular and PCS carriers reported figures much higher than the mean – as high as 28 percent.¹¹ Because the mean is just below 8 percent, these high reported values are outliers associated with a relatively small proportion of the industry demand, and do not provide any basis for simply assuming the existence of a “true” mean that is twice the reported average. It is possible that the carriers reporting higher percentages, particularly PCS carriers whose MTA licensed territories regularly cross state boundaries, simply experience percentages of interstate traffic that are higher than the mean for the industry.

The Commission seeks comment on whether it should adopt different “safe harbor” percentages within each category of provider.¹² GTE recommends against this approach. As the discussion in the Notice makes clear, there is sufficient difficulty associated with arriving at one percentage, much less several, for each category. If a carrier experiences a different pattern of traffic, then to such an extent that it feels handicapped by the use of the single “safe harbor” percentage, it may exercise its option to submit a study to document the percentage it proposes to use.

In any event, it is not clear from a policy standpoint why a wireless carrier whose service area straddles a state line should contribute more toward the national goal of universal service than a carrier with an otherwise identical area contained entirely within a single state. Rather than expend resources to measure this inherently uninteresting difference – and run all the risks to competitive neutrality that attend such an effort – the

¹¹ *Id.* at ¶20.

¹² *Id.* at ¶24.

Commission should simply adopt a more reasonable funding base of combined state and interstate retail revenues.

The Commission also asks whether an alternative flat rate basis of contribution should be developed for wireless carriers.¹³ Commissioner Furchgott-Roth has suggested that some flat-rate method of recovery might be adopted for all carriers contributing to the federal universal service mechanisms. However, the Commission should certainly not consider adopting a flat-rate approach for wireless carriers only. All carriers should contribute on the same basis in order to ensure competitive neutrality, and to meet the requirement of Section 254 that contributions be equitable and nondiscriminatory.

¹³ *Id.* at ¶26.

Contributions on a flat per-unit basis may have some attractive efficiency properties, and, as the Notice observes, they would obviate the need to separate revenues by jurisdiction. However, there are other important questions to be answered before a flat rate approach could be adopted. The first is whether a flat recovery per unit would have undesirable distributional effects across customers. The second is how flat charges would be assessed to customers who purchase services from more than one carrier (such as a LEC and an IXC). Finally, and most importantly, there is the question of what unit to use as the basis for the flat rate assessment. Given the wide variety of carriers and technologies in the marketplace, there is no common unit – other than dollars – that can readily be measured for all carriers. Certainly wireless carriers do not have “voice grade access lines”. The Notice recognizes that the amount of the flat charge would have to vary according to the type of carrier or service. The most reliable measure of the relative “amount” of telecommunications service each customer purchases is the amount of money that customer is willing to pay for it. The advantage of a revenue measure is that it is self-weighting, based on the value each customer places on the service. The use of any other weights, such as assumptions about relative capacity, casts the Commission in the role of the handicapper of service and technologies. The Commission’s choice of equivalency factors for developing the flat rate for each service could bias the market’s choice, and in so doing impose a loss of dynamic efficiency which might well outweigh any possible gains in static efficiency to be had from a flat assessment. While the Commission may wish to consider a flat rate assessment, it should do so only if it is willing to apply such a scheme to all carriers, not just wireless carriers, and only if the concerns listed here are reasonably addressed.

IV. THE COMMISSION SHOULD CLARIFY THE TIMING AND APPLICABILITY OF ITS SAFE HARBOR GUIDELINES.

The Notice does not address when companies should begin to use the "safe harbor" factor or, in lieu of using it, when companies must submit their individual studies for Commission review in order to submit Universal Service Worksheet, FCC Form 457¹⁴ information on a timely basis. Since carriers have already reported revenues for the first six months of 1998 and in order to maintain some level of continuity and consistency for planning for 1998 contributions, GTE proposes that use of any "safe harbor" guidelines commence in conjunction with the annual filing for 1999 revenues. For those carriers which elect not to use the "safe harbor" factors and intend to submit studies supporting their own interstate factor, studies should be submitted no later than February 15 of each year to allow Staff an opportunity to review these studies and issue a response by mid March in time for carriers to prepare their annual filings.

V. THE COMMISSION SHOULD REQUIRE A MINIMUM AMOUNT OF LOCAL USAGE TO BE MADE AVAILABLE AT AN AFFORDABLE RATE.

The Commission seeks comment on the local usage component of the basic service package an eligible telecommunications carrier ("Eltel") must offer throughout its

¹⁴ In the Matter of the 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services ("TRS"), North American Numbering Plan ("NANP"), Local Number Portability ("LNP"), and Universal Service Support Mechanisms, CC Docket No. 98-171, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 98-233 (released September 25, 1998) ("*Streamlined Reporting Notice*"), at ¶18. The Commission proposes to replace FCC Forms 457, 431, and 496 with a single Form 499 to be filed annually on April 1.

service area.¹⁵ The Commission has previously concluded that some local usage should be included.¹⁶

States have generally sought to ensure that subscribers will have the ability to make some reasonable use of their local service at rates that are affordable. The Commission notes, correctly, that the determination of any usage requirement will also affect the competitive neutrality of the universal service plan. Different carriers have different cost structures, which in turn affect their price structures.¹⁷ Further, even for any given technology, in a competitive market carriers are likely to offer a range of different service options to customers, and this diversity of choice should not be unduly restricted by the Commission's universal service policy. Today, wireline carriers offer some local service packages with unlimited local calling at a flat rate; they also offer measured service packages with a minimum calling allowance, as well as measured service packages with no calling allowance.¹⁸ Wireless carriers generally do not offer unlimited flat rate calling, but they do offer a wide array of usage packages at different prices. It is very difficult, therefore, to select a usage requirement that will be competitively neutral. A requirement that carriers include the current average amount of

¹⁵ Notice at ¶47.

¹⁶ Universal Service Order at 8814 ¶69.

¹⁷ The Notice observes, at ¶47, that a wireline carrier has a significant fixed loop cost, and a relatively low cost for usage, while a wireless carrier has little subscriber-specific fixed cost, but a higher cost for usage.

¹⁸ The Notice recognizes at ¶99 that some wireline carriers do not offer any local usage in their flat-rated packages. While GTE generally does have flat-rated unlimited services available, it does offer many service packages that do not include a minimum usage allowance.

wireline usage would make it difficult for wireless carriers to meet the standard; indeed if any minimum usage allowance were required, many of the incumbent local exchange carriers' (ILECs) current measured service tariffs would not qualify. On the other hand, if no usage is required, this would also not be neutral, since ILECs are required by their states today to offer packages that do include usage.¹⁹

A. The Commission Should Focus On The Affordability Of The Package, Rather Than On Whether Usage Is Included At A Flat Rate.

Most of the discussion concerning a usage requirement has focused on whether the subscriber receives a usage allowance as part of the flat monthly subscription price of the service. GTE submits that this is not the real issue. As the Notice correctly points out, it is more important to ensure that "a local usage requirement is included as part of an option that represents a viable choice for consumers."²⁰ The Notice recognizes that including usage in a flat rate does not, by itself, ensure that this goal will be met:

For example, the obligation to provide some local usage would be rendered meaningless if a wireless carrier could satisfy that obligation by offering, among other service options, a basic service package containing local usage that was priced hundreds of dollars higher than options offered by that wireless carrier or competing carriers, so that no one selected it.²¹

In other words, in order for the service package to be "a viable choice for consumers" it must be offered at an affordable price. GTE submits that the only way for the Commission to assess the reasonableness of the usage component of a basic

¹⁹ The Notice acknowledges at ¶49 that "(s)etting an unreasonably high or low level of local usage can significantly affect competition among different technologies."

²⁰ Notice at ¶50.

²¹ *Id.* at ¶50.

service package is by taking into account the price at which the package is offered. Further, what makes the service affordable is the overall price the customer must pay to obtain the service with the desired usage, not whether the usage is included in a flat rate. Rather than attempt to regulate the carriers' price structures (flat vs. measured), the Commission should instead decide how much usage a customer should be able to buy for an expenditure that is affordable.

The Notice seeks comment on whether carriers should be eligible to receive universal service support only for subscribers who select a basic local service package that includes a certain amount of local usage without additional charge.²² The Commission should not take this approach. As the example in the Notice shows, without reference to price, no requirement that focuses solely on a minimum usage allowance will ensure that customers have a "realistic option." Further, as GTE described in its recent Comments on the Joint Board's Second Recommended Decision,²³ a carrier could use a service package that includes a bundle of features, such as local usage, toll usage, internet access, video services, or calling features, offered at a relatively high price, to effectively segment the market, attracting only high-revenue customers, leaving other customers in the service area to be served by the ILEC.²⁴ If the purpose of the universal service subsidy is to ensure the availability of the defined service at an affordable rate, then surely the affordability of the rate is relevant

²² *Id.* at ¶150.

²³ GTE Comments at 28.

²⁴ In the example given in the Notice, the carrier's objective is to ensure that no customers choose the option. Here, the carrier's objective is to ensure that only those customers the carrier wishes to target choose the option.

to whether the service offering meets the objectives of the Commission's plan. At the same time, any requirement the Commission establishes should be designed to avoid interfering with the variety of different service packages and options that a competitive market would offer consumers.

GTE proposes that the Commission should choose an amount of local service that it wishes to make available as part of any affordable basic service package. This amount should be included in the federal definition of basic local service. The Commission should then require, as a condition for receiving funds, that an Eitel must offer at least one basic service package that:

- 1) Meets the definition of basic local service; and
- 2) Is offered at a price no higher than the rate found by the state commission to be "affordable" in that area.

In order to determine whether the service meets the definition, the Commission would ask whether the amount the customer would pay – including the monthly flat rate and any usage charges – for the defined amount of usage would exceed the affordability level established by the state.²⁵ This requirement could be satisfied by many different service packages, with different combinations of flat rates and usage prices.

GTE's approach would ensure that a local subscriber would have access to a service that includes the desired amount of usage as a "realistic option" at an affordable

²⁵ For example, suppose that the state commission finds the affordable rate to be \$20, and the Commission defines the basic service to include 100 minutes of calling. This requirement could be met by an unlimited flat rate package priced at \$20, or by a measured service package with a monthly rate of \$17 and a usage rate of 3 cents per minute, or by a wireless package with a monthly rate of \$10 and a usage rate of 10 cents per minute.

rate. It would not require the Commission to interfere in the details of ratemaking, since it would rely on the affordability determination made by the state commission.²⁶ To the contrary, it would allow carriers a greater degree of flexibility in meeting the standard, since it would not be necessary to include the usage in the monthly subscription fee. Carriers with different cost characteristics, or with different business strategies, could offer different packages, and customers with different needs would benefit from having a wider range of service options. At the same time, the proposal provides the minimum constraint needed to ensure that each subsidized carrier furthers the policy objectives of Section 254 of the 1996 Act, and that a customer can obtain service that is affordable – including a reasonable amount of usage – from each subsidized carrier.²⁷

B. The Amount Of Usage Required Should Be Sufficient To Allow Reasonable Use Of The Service At An Affordable Rate.

The Notice seeks comment concerning the amount of usage that should be required in the basic service package. One possible value would be the average usage level of current wireline customers. However, GTE believes that this is too high for what is, in essence, a minimum usage amount that the Commission would wish to make available.²⁸ Not every customer uses this amount, and many customers choose

²⁶ The Commission has already deferred the determination of affordability to the states. Universal Service Order, at 8790, ¶¶23.

²⁷ In its Second Recommended Decision ¶57, the Joint Board proposed that the Commission should establish conditions for the receipt of federal funds by an Eltel in order to ensure that the funding is used in a manner consistent with Section 254. GTE, in its comments on the Joint Board's recommendation at 29, proposed the same condition described here.

²⁸ However, for purposes of developing inputs to the Commission's cost model, GTE believes that the average usage level should be used, rather than the minimum, since it is representative of the usage carriers must actually supply.

measured service packages that suit their needs, given their lower levels of usage. Further, it would appear that, at least at the current level of wireless costs and rates, that such a requirement would be difficult for a wireless carrier to meet.²⁹ GTE suggests that the Commission should choose a number of minutes greater than zero, but less than the average wireline usage – an amount intended to establish a minimum level of usage that would be available to each local subscriber at an affordable rate.

The Notice also seeks comment on whether the Commission should establish different requirements for different types of carriers. GTE strongly urges the Commission to use the same requirement for all carriers. Once the Commission begins to “handicap” carriers by applying different standards, it will be impossible to maintain competitive neutrality. Instead, the Commission should seek to develop a standard, such as the one GTE proposes here, that is sufficiently general to apply to all carriers.

C. The Commission Should Support All Service Packages That Meet The Requirements.

The Notice asks if support should be provided only for customers of an Eltel who select a certain minimum service package, and not for customers who select packages that include larger bundles of service.³⁰ GTE shares the concern which lies behind this suggestion: that a carrier will meet its requirement by offering a service no one wants, and then be subsidized for its other service offerings. However, GTE believes that this

²⁹ The Commission notes (at n. 104) that average wireline flat rate usage falls in a range from 500 to 750 minutes per month. For a customer in Texas subscribing to an AT&T digital PCS service that includes 600 minutes of local calling – an amount of usage that falls in the middle of the range cited by the Commission – the current monthly flat rate is \$70. This is probably higher than the rate most state commissions would find “affordable.”

³⁰ Notice at ¶150.

concern can more effectively be addressed by applying the requirement proposed here, which makes reference to the affordable rate established by the state. Subsidizing some packages, but not others, would raise new and equally important concerns.

If the Commission supports only the most basic service package, but denies support to other, more advanced packages that subsume the basic functions, then it will create a relative price distortion. The subsidized price of the most basic package will make it artificially attractive compared to other service offerings. This will make it very difficult for any carrier to market service packages that include more services, or that offer new technology. Suppose the basic wireline service in an area would sell for \$30 if it were priced at cost. The carrier develops a new technology that would cost \$35, but that offers additional capabilities. Suppose the carrier's market research shows that 75% of the customers in a service area would be willing to pay at least \$5 more to get the additional capabilities. The carrier would probably find that it made business sense to invest in the new service. However, the current price of the basic service is not set at its cost. Suppose, for example, that customers today are paying \$15. If the new service is priced at cost, the price difference will now be \$20, instead of \$5. It is likely that far fewer customer would be willing to pay \$20 extra for the additional capabilities that the new service offers, and it will be difficult for the carrier to make a business case for the new investment. In this way, universal service funding could "crowd out" innovative new services, and condemn subscribers to a future of limited offerings and old technology.

To avoid this outcome, GTE recommends that, if an Eltel offers at least one service package that meets the affordability requirement discussed above, then any

service package offered by that carrier that meets the basic local service definition should also be supported. If the defined service is available at an affordable rate, then no customer will be required to buy a higher priced service to get the minimum level of functionality. Once this safeguard is in place, the Commission should provide the same support for any other package containing at least the same level of functionality that the customer may choose to buy. This will ensure that the support will not artificially distort the customer's choice of service package or technology.

VI. WHILE WESTERN WIRELESS HAS A VALID CONCERN, THE COMMISSION SHOULD REJECT WESTERN WIRELESS' RECOMMENDATION TO AMEND PARTS 36 AND 54 RULES.

While Western Wireless has a valid concern regarding the frequency with which an Eitel may submit claims for universal service support, the Commission should reject Western Wireless' recommendation to address this concern by amending Parts 36 and 54 rules so that they are consistent.

The Part 36 rules provide that carriers must report their line counts, and their embedded costs, annually. Carriers have the option of filing quarterly updates; this provision is intended to allow for large new investments that a small LEC might make within a given year. These line counts and cost have been used to estimate the high cost funding for ILECs. The Commission is preparing to replace this calculation for nonrural areas in July, 1999. For rural companies, the Commission has chosen to continue the current embedded cost methodology for three years.³¹

For the purpose of calculating support for nonrural areas, GTE agrees with Western Wireless that a carrier's claims upon the fund should not be based on data

³¹ Joint Board's Second Recommended Decision at ¶52.

from the previous year. For that matter, neither should a carrier's contributions to the fund be based on its revenues from the previous year. Instead, the fund administrator should manage the fund on something closer to a real-time basis. Carriers should submit their customer counts on a schedule established by the fund administrator, with sufficient frequency to keep the counts reasonably accurate. Similarly, the fund administrator should establish a contribution percentage to be applied to each carrier's revenue on a going forward-basis. Each carrier would remit that percentage of its revenue to the administrator until such time as the administrator might find it necessary to adjust the percentage to "true-up" fund receipts with fund withdrawals. This approach would ensure that each carrier contributes on the basis of its current revenue, rather than its revenue in some prior year.

However, the Commission has chosen to maintain for three years the current rules as they apply to rural areas. GTE suggests that, rather than tinker with the rules as Western Wireless suggests, the Commission should maintain the current rules until the end of the three-year period. At that time, the Commission can consider whether it wishes to adopt a different procedure, based on its experience with the nonrural plan.

If the Commission does decide to modify the plan for rural areas before the end of the three year period, in order to address the concerns raised by Western Wireless, then GTE would suggest a more reasonable alternative to the modification Western Wireless has suggested:

First, because the current plan for rural areas is based on embedded cost, the section of the Part 36 Rules cited by Western Wireless contemplates a filing of embedded cost information by the ILEC, in addition to line counts. There is no reason why an ILEC should be required to file new embedded cost information in between the regular annual filings.³² This will not be an issue for the nonrural plan, because the Commission has chosen not to base nonrural support on embedded cost.

Second, the rules should not allow a mismatch between the line counts submitted by the carriers and the cost information submitted by the ILEC. Such a mismatch could occur if a new carrier, such as Western Wireless, were to file quarterly line count information. If a new cost per line were recalculated as a result of the quarterly filing, based on the previous cost information from the ILEC, the estimated cost per line would be incorrect.

If the Commission wishes to allow carriers such as Western Wireless to submit claims for universal service funding more frequently than on an annual basis, GTE recommends that the Universal Service Administrative Company ("USAC") establish a reporting mechanism which allows both ILECs and rural ILECs the option of reporting their customer lines on a quarterly basis. However, those ILECs who elect to make quarterly customer line submissions should not be required to submit updated revenue or cost information on a quarterly or semi-annual basis.³³

³² Of course, ILECs should continue to have the option in Part 36 of submitting embedded cost data on a quarterly basis, in order to account for large new investments within the year.

³³ GTE Comments in response to the Streamlined Reporting Notice, October 30, 1998, at 5. GTE proposes amending Part 54.711(a) to eliminate the requirement for carriers to submit Universal Service Worksheet, FCC Form 457 semi-annually.

GTE proposes that each rural ILEC's average support amount per line be established annually based on information received from the July 31 annual filing for rural companies. This per line support amount would then apply to any lines reported by any Eltel that chooses to submit quarterly reports of its line counts. The same per-line amount would be used until the annual filing in July of the following year.

VII. CONCLUSION

GTE continues to support the adoption of both interstate and intrastate revenues as the funding base for universal service mechanisms. However, in the event this proposal is not adopted by the Commission, GTE believes that use of an industry standard "safe harbor" percentage brings a degree of uniformity to the process of reporting interstate revenues for those carriers who have difficulty distinguishing between interstate and intrastate revenues.

GTE also believes that the Commission should focus not on whether a certain amount of local usage is included in a flat rate package, but on how much usage a customer should be able to buy at an affordable price. By addressing the issue in this manner, the Commission would allow carriers a greater degree of flexibility in offering different service packages with different combinations of flat rates and usage prices. Finally, while GTE understands the concerns raised by Western Wireless in its Petition for Clarification or Rulemaking, the Commission should reject Western Wireless' recommended changes to the Commission's Rules. The Commission should consider

simpler options for reporting customer counts on a more timely basis to the fund administrator.

Dated: January 11, 1999

Respectfully submitted,

GTE Service Corporation and its designated affiliated domestic companies

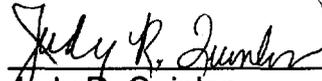
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CERTIFICATE OF SERVICE

I, Judy R. Quinlan, hereby certify that copies of the foregoing "Comments of GTE" have been mailed by first class United States mail, postage prepaid, on January 11, 1999 to all parties of record.



Judy R. Quinlan