STATE OF MAINE
PUBLIC UTILITIES COMMISSION
242 STATE STREET
18 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0018

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WILLIAM M. NUGENT
STEPHEN L. DIAMOND
COMMISSIONERS

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January 19, 1999

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

Re: CC DOCKET 96-45, FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE, DA 98-2410

Dear Ms. Salas:

Enclosed are eight copies of the Reply Comments of the Arkansas Public Service Commission, Kansas Corporation Commission, Maine Public Utilities Commission, Montana Public Service Commission, New Hampshire Public Utilities Commission, New Mexico Public Utilities Commission, Vermont Public Service Board and the West Virginia Public Service Commission in the above docket. Page 2 was inadvertently omitted from some copies of the original filing and those that were sent out to the service list in the above docketed case. Please date stamp one copy and return in the enclosed self-addressed stamped envelope.

Sincerely,

Joel Shifman

JS/mlc
Enclosure

cc: International Transcription Service
Sheryl Todd

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PHONE: (207) 287-3831 (VOICE) TTY: 1-800-437-1220 FAX: (207) 28.

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

In the Matter of	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	and DA 98-2410

REPLY COMMENTS ON THE JOINT BOARD'S SECOND RECOMMENDED DECISION OF THE ARKANSAS, KANSAS, MAINE, MONTANA, NEW HAMPSHIRE, NEW MEXICO, VERMONT AND WEST VIRGINIA STATE REGULATORY AGENCIES

I. INTRODUCTION

The Arkansas, Kansas, Maine, Montana, New Hampshire, New Mexico, Vermont and West Virginia state utility commissions (the "Rural States") take this opportunity to reply to initial comments on the Second Recommended Decision (the "Recommended Decision") of the Federal- State Joint Board on Universal Service (Joint Board).

The Rural States respectfully submit the following reply comments to some initial commentors' recommendations that, in our view, are inconsistent with the Act.

II. THE LEVEL OF COMPETITION IN THE LOCAL EXCHANGE MARKET CANNOT BE USED AS A REASON TO NOT INCREASE THE SIZE OF THE CURRENT HIGH COST FUND.

In their initial comments the Maryland Public Service Commission and four other low cost states ("Maryland et al") suggest that Section 254 of the Act is based on the fundamental premise that local competition would necessitate a system of explicit support to maintain affordable rates. Based on their reading of the Act they conclude that because there is currently limited local competition additional high cost funding is not necessary. The Public Utilities Commission of Ohio ("Ohio") also states that "[u]ntil such time as significant competition in the local market develops any expansion at the existing universal service funding level for non-rural

carriers is inappropriate." Those legal interpretations of Section 254 are incorrect. The Comments of Maryland et al, and Ohio incorrectly tie the requirements of Section 254 to the development of local competition.[1]

Section 254 of the Act unconditionally requires a sufficient federal universal service fund to produce comparable rates between urban and rural areas. Even if competition should fail to develop in most areas, Section 254 still requires a larger federal universal service fund because the existing high cost fund program is not sufficient and does not produce reasonably comparable rates.

As we stated in our initial comments, the existing support system was not designed, as the Act now requires, to ensure that rates in rural, insular and high costs areas are reasonably comparable to rates in urban areas. The current high cost fund fails to meet the standards of comparability and sufficiency later established by Congress in the 1996 Act. The existing system is insufficient with regard to loop support, switch support and transport support.

III. STUDY AREA AVERAGE COSTS SHOULD BE USED

The Iowa Utilities Board ("IUB") advocates using a geographic area such as a wire center or exchange to measure costs. It asserts that using study area level costs to determine support would lead to insufficient support for truly high cost areas and would give support to areas that are not truly high cost.

We do not agree. First, the use of average study area costs does not mean that "the practice of providing universal service support for all lines within a company's study area" must continue. (Iowa comments p. 2) Under the Joint Board Recommendation the study area average costs need only be used to determine the amount of support. The use of the study area average costs does not determine how support within a company must be distributed. Under the Joint Board's recommendation a state would and should be able to direct the support to the high cost area of a study area.

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[1] Footnote 11 of the comments of Maryland et al. does not support their proposition that the fund size should not increase. On the contrary the FCC found that "federal and state regulators must ensure that universal service is preserved and advanced as we move from a monopoly to a competitive market." *Second Recommended Decision* at para. 1 (emphasis added)

Second, the use of sub study area costs such as wire center, exchange, or CBG costs to determine federal universal service support as the IUB suggests will greatly increase the size of the fund because that method will effectively federalize the existing intrastate implicit subsidies that exist within a study area. The Joint Board correctly observed that federalizing existing intrastate subsidies is not a proper federal purpose.

Respectfully submitted on
January 13, 1999

Joel B. Shifman, Esquire
Maine Public Utilities Commission
242 State Street
18 State House Station
Augusta, Maine 04333-0018
(207) 287-3831

Respectfully submitted,

By:

Samuel C. Loudenslager, Director
Research & Policy Development
Arkansas Public Service Commission
1000 Center Street
P.O. Box 400
Little Rock, Arkansas 72203-0400
(501) 682-5824

Respectfully Submitted,

Glenda Cafer, General Counsel
Eva Powers, Assistant General Counsel
Marianne Deagle, Assistant General Counsel
KANSAS CORPORATION COMMISSION
1500 S.W. Arrowhead Road
Topeka, KS 66604-4027
(913) 271-3138

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Respectfully submitted

Joel B. Shifman, Esquire
Maine Public Utilities Commission
242 State Street
18 State House Station
Augusta, Maine 04333-0018
(207) 287-3831

The Montana Public Service Commission

Karen Finstad Hammel
Staff Attorney, Montana Public Service Commission
Special Assistant Attorney General
1701 Prospect Avenue
PO Box 202601
Helena, Montana 59620-2601
(406) 444-6179

Respectfully submitted for the
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

E. Barclay Jackson by mc.

January 13, 1999

by E. Barclay Jackson, Esq.
Hearings Examiner
New Hampshire Public Utilities Commission
8 Old Suncook Road
Concord, New Hampshire 03301-7319

Respectfully submitted,

The New Mexico
Public Regulation Commission

By _____
Dana David
Advisory Staff Counsel
PERA Building
P.O. Drawer 1269
Santa Fe, New Mexico 87504-1269

Respectfully submitted on
January 13, 1999

The Vermont Public Service Board

by: _____

Kurt Janson, Esq.
General Counsel
112 State Street
Drawer 20
Montpelier, VT 05620-2701
(802) 828-2358

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

By Counsel,

Steven Hamula, Esquire
201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323
(304) 340-0309