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OFFICE OF THE SECRETARY

In the Matter of

Federal-State Joint Board on
Universal Service

Access Charge Reform

CC Docket No. 96-45

CC Docket No. 96-262

COMMENTS
of the
GENERAL SERVICES ADMINISTRATION

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Summary

In these Comments, GSA addresses issues concerning high-cost support and access charge reform from the perspective of an end user seeking to foster more competition for local telecommunications services.

To begin, GSA addresses the Commission's tentative decision to employ broad averages for study areas in computing the needs for high-cost support. GSA explains that such broad averages will not help competition to develop. Among the choices identified in the Notice, GSA's recommendation is to employ averages for wire center areas. In any event, costs should be disaggregated at least to the pricing zones established for unbundled network elements.

Secondly, GSA recommends that the Commission take steps to ensure that universal service funds are used by recipient carriers for the purposes specified in the Telecommunications Act. Carriers should not be permitted to apply funds to meet general facilities costs, cover general overhead expenses, support activities to forestall competitors, or increase their earnings levels.

Thirdly, GSA recommends that high-cost support be portable among all wireline and wireless carriers. With full portability, the Commission's "hold harmless" rules should be implemented on a geographical, rather than a carrier basis. Thus, a carrier losing subscribers to a competitor would receive less support, and a carrier with an increasing subscriber base would receive correspondingly more.

Finally, GSA urges the Commission to adopt its tentative conclusion to require LECs under price cap regulation to reduce interstate access charges to reflect any increases in explicit Federal high-cost support. Starting with the restructured support mechanisms adopted in 1997, the Commission has kept the impact of universal service fund changes revenue neutral by adjusting access charges. GSA urges the Commission to continue this process. Moreover, the best procedure to maintain revenue neutrality at the present time is to adjust the revenue requirement for the common line basket.

**BEFORE THE
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WASHINGTON, D.C. 20554**

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**COMMENTS
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GENERAL SERVICES ADMINISTRATION**

The General Services Administration (“GSA”) submits these Comments on behalf of the customer interests of all Federal Executive Agencies (“FEAs”) in response to the Commission’s Further Notice of Proposed Rulemaking (“Notice”) released on May 28, 1999. In the Notice, the Commission seeks comments and replies on issues concerning universal service high–cost support and access charge reform.

I. INTRODUCTION

Pursuant to Section 201(a)(4) of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 481(a)(4), GSA is vested with the responsibility to represent the customer interests of the FEAs before Federal and state regulatory agencies. The FEAs require a wide array of interexchange and local telecommunications services throughout the nation. From their perspective as end users, the FEAs have consistently supported the Commission’s efforts to bring the benefits of competitive markets to consumers of all telecommunications services.

In consultation with the Federal–State Joint Board on Universal Service (“Joint Board”), the Commission has taken an important step in reforming the high–cost

support procedures for non-rural local exchange carriers ("LECs").¹ In the *Seventh Report and Order*, the Commission describes a forward-looking methodology for calculating universal service support for non-rural carriers providing service in high-cost areas. Procedures adopted in the *Seventh Report and Order* will be employed to determine Federal support amounts. These procedures will not require states to institute an intrastate universal service support system. However, to prevent disruption in intrastate rates, the Commission also adopts a "hold harmless" approach to ensure that the amount of support provided by the new plan will be no less than that amount provided under the existing Federal high-cost support procedures.²

The Notice, which was issued concurrently with the *Seventh Report and Order*, seeks comments on issues concerning how the universal service support should be calculated and distributed. In these Comments, GSA addresses issues concerning four topics designated in the Notice:

- the areas over which costs should be averaged;
- restrictions on the application of support;
- portability of support; and
- adjusting interstate access charges to account for increases in explicit support.

In a separate Further Notice of Proposed Rulemaking ("Companion Notice"), also released concurrently with the *Seventh Report and Order*, the Commission seeks comments on the input values for the model to be used to determine the carriers' forward-looking costs. GSA is submitting separate Comments in response to the Companion Notice.

¹ Seventh Report and Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45; and Fourth Report and Order in CC Docket No. 96-262; released jointly on May 28, 1999 ("*Seventh Report and Order*").

² Notice, paras. 6-10.

II. COMPUTATIONS OF HIGH-COST SUPPORT REQUIREMENTS SHOULD NOT EMPLOY BROAD AVERAGES FOR STUDY AREAS.

A. The Commission and the Joint Board have acknowledged that costs and competitive conditions vary widely over the statewide service areas of most LECs.

In the *Seventh Report and Order*, the Commission concludes that the need for support should be determined on the basis of a cost-based benchmark.³ The Commission rejects procedures for determining the need for this support on the basis of rate levels, household incomes, or other factors.⁴ After considering the comments by many parties, the Commission has decided to employ a benchmark based on the average forward-looking cost of providing the supported services.⁵

With the procedure designated by the Commission, one of the most contentious decisions is the selection of the geographical area for which costs are to be averaged for comparison with the benchmark. In the Notice, the Commission seeks further comments as to whether the comparisons should be made at: (1) the wire center level; (2) the unbundled network elements ("UNE") cost zone level; or (3) the study area level.⁶

The Commission tentatively adopts the Joint Board's most recent recommendation to make comparisons on the basis of averages for study areas, which usually correspond to state boundaries.⁷ Although this averaging procedure is employed currently, GSA urges the Commission to adopt a smaller geographical area. Indeed, in previous Comments to the Commission in this proceeding, GSA explained

³ *Seventh Report and Order*, para 6.

⁴ *Id.*, paras. 33-35.

⁵ *Id.*, para. 11.

⁶ Notice, para. 102.

⁷ *Seventh Report and Order*, para 33.

that the service area of a LEC within a state will almost always encompass disparate parts — ranging from densely populated sections where the unit costs are relatively low, to sparsely developed sections where the unit costs are greater.⁸ Also, since competition has developed much more rapidly in densely populated regions, a study area will usually encompass sections with far different levels of competitive activity. Thus, averages for a study area will usually not be representative of the costs or the competitive conditions in most of its constituent parts.⁹

The principal argument advanced in support of comparisons at the study area level is that calculating costs at the more aggregate level will help minimize increases in the total requirements for support, because high-cost regions within the study area will be averaged with lower-cost regions.¹⁰ However, GSA believes it is not necessary to rely on greater aggregation to help minimize the overall needs for high-cost support. If less aggregation results in a total program cost that is unacceptable, the requirements can be reduced by increasing the support threshold — that is by cutting support to some mid-cost areas. Since support would be provided for somewhat fewer areas, the resulting distribution would actually be better targeted to those regions with the greatest cost of service.

The Joint Board originally recommended that forward-looking economic costs be determined for wire center areas or even smaller geographical areas.¹¹ In 1997, the Commission adopted this recommendation in its *First Report and Order* in the

⁸ CC Docket No. 96-45, Comments of GSA, December 23, 1998, pp. 11-13.

⁹ *Id.*

¹⁰ Notice, para. 105.

¹¹ *Id.*, para. 101.

instant proceeding.¹² The Joint Board subsequently revised its original recommendation, and suggested that Federal support be determined initially by computing forward-looking costs on a study area basis. The Commission adopted this recommendation in its *Second Recommended Decision* in the current proceeding.¹³

When changing its recommendation, the Joint Board stated that the use of study areas “will properly measure the amount of support that is required of the Federal mechanism in light of the current level of competition.”¹⁴ However, the Joint Board acknowledged that the wire center basis permits more precise measurements.¹⁵ Moreover, the Joint Board explicitly acknowledged that calculating costs for study areas may be less appropriate as competition continues to develop.¹⁶

The Commission also recognized that statewide cost averages will not be beneficial in helping competition to develop when it designated rules for the geographically deaveraged pricing of UNEs.¹⁷ Under these rules, state local regulatory agencies were required to establish rates and charges for UNEs in at least three geographical areas within the state in order to reflect cost differences.¹⁸ For this

12 Federal-State Joint Board on Universal Service, *First Report and Order*, 12 FCC Rcd 8776, at 8884.

13 *Second Recommended Decision*, 13 FCC Rcd 24744 at 24758.

14 *Id.*, at 24759.

15 *Id.*

16 Notice, para. 101, citing 13 FCC Rcd at 24759.

17 Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*, 11 FCC Rcd 15499 (1996), *aff'd in part and rev' in part sub nom. AT&T v. Iowa Utilities Bd.*, 119 S. Ct. 721 (1999).

18 Notice, para. 104.

purpose, state regulators may use density-related zone pricing plans, or other cost-related zone plans established under state laws.¹⁹

By allowing the incumbent carrier's rates to reflect costs more accurately, explicit support will provide more incentives for competitors to expand their service offerings beyond urban areas and business centers.²⁰ To ensure these benefits, GSA urges the Commission not to adopt the use of study area averages in determining the level of universal service support.

B. Costs should be compared only for homogeneous geographical areas.

Smaller averaging areas will produce more precise results. Moreover, cost modeling approaches are designed to accommodate this greater precision. As GSA noted in its previous Comments, even the cost models available in 1998 were based on the geographical divisions employed for the Federal census (Census Block Groups and Census Blocks), and some of the cost models were based on the boundaries of wire center service areas that are established by local exchange carriers.²¹ In the Companion Notice, the Commission indicates that the model that the Commission now envisions for universal service costs will accommodate geographically precise data.²²

In its previous Comments, GSA recommended using averages for wire center serving areas, or even smaller areas such as census blocks or grid cells.²³ In fact, instead of adopting a uniform standard, GSA urged that the Commission to adopt a variable standard reflecting two considerations:

¹⁹ *Id.*, para. 104, citing 47 U.S.C. §51.507(f).

²⁰ *Id.*, para. 103.

²¹ Comments of GSA, pp. 12-13.

²² Companion Notice, para. 259.

²³ Comments of GSA, pp. 12-13.

- homogeneity of the area, accounting for probable future distributions of households and businesses; and
- the need to reconcile in the aggregate with wire center boundaries in order to employ line count and traffic data maintained by carriers.²⁴

Furthermore, as GSA explained, in some cases it may be important to represent the fact that end users are clustered in extremely small parts of a study area.²⁵ Clustering algorithms are being developed to enable cost models to depict these unique demographic conditions accurately.²⁶

Greater precision is better, but if the Commission elects not to employ wire center averages or even greater levels of disaggregation for computing universal service requirements, the next best choice is to adopt the structure of cost zones employed for UNE pricing. Use of UNE pricing zones would provide at least a three-way cost-based division of the region served by each LEC in a state. Also, the use of these UNE pricing zones would provide operational and administrative efficiencies because of dual use of a single mapping plan for two important functions.

III. THE COMMISSION SHOULD ENSURE THAT UNIVERSAL SERVICE FUNDS ARE USED AS SPECIFIED IN THE TELECOMMUNICATIONS ACT.

The Telecommunications Act places constraints on the application of the funds that carriers receive for universal service support.²⁷ Section 254(e) of the legislation contains the following provisions:

²⁴ *Id.*, p. 13.

²⁵ *Id.*, p. 6.

²⁶ *Id.*

²⁷ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. §§ 151 *et seq.* ("Telecommunications Act").

A carrier that receives [universal service] support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support will be explicit and sufficient to achieve the purposes of this section.²⁸

The Joint Board recommended that the Commission require carriers to certify that they will apply Federal high-cost support in a manner consistent with this section of the Telecommunications Act.²⁹

In the Notice, the Commission tentatively concludes that making support available as described in the *Seventh Report and Order* would empower state regulators to achieve reasonable comparability of rates within their respective jurisdictions.³⁰ The Commission seeks comments on whether making Federal support available as carrier revenue, to be accounted for by state regulators in the rate setting process, will sufficiently fulfill the requirements of Section 254(e) of the Telecommunications Act.³¹

With regard to the Commission's tentative conclusion, GSA believes that making the support available should, at least theoretically, allow state regulators to achieve the level of revenue comparability anticipated in establishing the nationwide benchmark. Whether or not state regulators would act quickly to achieve this end is a different matter. It seems likely that many state commissions would do so, but some would not. Also, the actions of state regulators may only address overall revenue level, and not the use to which the support is put.

From GSA's perspective as an end user concerned with the ability to obtain high-quality services from as many providers as possible, the act of making funds

28 *Id.*, Section 254(e).

29 *Second Recommended Decision*, 13 FCC Rcd 24744 at 24766.

30 Notice, para. 114

31 *Id.*

available does not go far enough in fulfilling the requirement of the legislation that universal service support be used only for the intended purpose. GSA urges the Commission to adopt definitive requirements that the universal service support be used to provide, maintain and upgrade facilities and services in the high-cost areas, and for no other purpose. Use of the funds by incumbent LECs to meet general facilities costs, cover general overhead expenses, support activities to forestall competitors, or increase earnings levels should not be condoned.

IV. UNIVERSAL SERVICE SUPPORT SHOULD BE PORTABLE AMONG ALL WIRELINE AND WIRELESS CARRIERS.

The Commission concludes in the *Seventh Report and Order* that high-cost support should be available to all "eligible" telecommunications carriers, whether they are incumbent LECs, competitive carriers, or wireless carriers.³² GSA concurs that universal service support should have this broad scope. This comprehensive requirement is consistent with competitive neutrality. Moreover, the broad scope is necessary to implement Section 214(e) of the Telecommunications Act, which states that universal service support must be provided to all carriers offering local services using their own facilities or a combination of their own facilities and resale of another carriers' services, and advertising the availability of such services using the general media.³³

As an interrelated issue, the Commission adopts a "hold-harmless" provision in the *Seventh Report and Order* in order to prevent reductions of Federal support and

³² *Seventh Report and Order*, para 71.

³³ Telecommunications Act, Section 214(e)(1). According to Section 214(e)(4), an eligible carrier may relinquish such designation if it wishes to do so and it is not the only eligible carrier serving the area.

potentially significant increases in local rates.³⁴ As originally articulated in the *Second Recommended Decision*, the hold-harmless provision stated that no non-rural carrier would receive less high-cost assistance than it currently receives from explicit support mechanisms.³⁵ In the instant Notice, the Commission seeks comments on whether a hold-harmless provision should be implemented on a state-by-state or on a carrier-by-carrier basis.³⁶

GSA believes that portability of universal service support requires that "hold harmless" be implemented on an area basis. If the support calculations are performed on a statewide averaging basis, the "state" is the appropriate area for "hold-harmless" determinations. However, if the support requirements are computed on the basis of a smaller geographical area, as GSA recommends in these Comments, that same area should be employed in the hold-harmless calculations. In any event, if an incumbent LEC is losing subscribers to a competitive LEC (or one competitive LEC is losing customers to another competitive LEC) in an area, the carrier with a reduction in subscriber base should receive less support and the carrier with an increasing base should receive correspondingly more.

Assuming that the "hold harmless" approach is implemented on a geographical basis, the Commission seeks comments on how to allocate support among carriers if the available total for the area is insufficient to hold each carrier harmless.³⁷ Again, with the caveat that "hold-harmless" should be administered on the basis of a smaller area, GSA believes that the only logical procedure for meeting shortfalls in the total is

34 Notice, para. 68.

35 *Second Recommended Decision*, 13 FCC Rcd at 24764.

36 Notice, para 117.

37 Notice, para. 120.

to allocate the funds designated for all eligible carriers in a region based on the relative number of revenue-producing subscriber lines that they serve.

V. REDUCTIONS IN ACCESS CHARGES ARE NECESSARY TO COMPENSATE FOR INCREASES IN HIGH-COST SUPPORT.

A. LECs should reduce interstate access charges to reflect increases in explicit Federal support.

With the proposed plan, the Commission does not anticipate a major increase in the total amount of high-cost support, but it is necessary to anticipate some increase.³⁸ To meet this eventuality, the Notice presents the tentative conclusion that the Commission should require price cap LECs to reduce their interstate access charges to reflect any increased explicit Federal high-cost support that they receive.

GSA concurs with this tentative conclusion, which is consistent with the significant steps that the Commission has taken in recent years to maintain revenue neutrality. Starting with the *First Report and Order* adopted in 1997, the Commission kept the impact of universal service fund changes revenue neutral, principally by focusing on access charges.

In the *First Report and Order*, the Commission created new universal service funding mechanisms and expanded the pool of companies contributing to universal service support. In a concurrent order, the Commission adopted a plan to reduce usage-sensitive access charges that interexchange carriers pay to LECs, which the Commission stated would result in lower long distance rates.³⁹ In a related order adopted May 7, 1997, the Commission prescribed an increase in the productivity factor

³⁸ *Id.*, paras. 128-130

³⁹ Access Charge Reform, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997)

for price cap carriers, forcing a major reduction of access charges paid by interexchange carriers.⁴⁰

GSA urges the Commission to continue the process of maintaining revenue neutrality. The interests of more competition will not be served by providing incumbent LECs with a windfall resulting from modifications to the high-cost support system. Moreover, the requirements to take steps to maintain revenue neutrality as especially vital at this time because the LECs' earnings are increasing.

According to a report recently released by the Common Carrier Bureau, interstate rates-of-return for the Bell holding companies ranged from 10.78 percent to 22.72 percent in 1998.⁴¹ GTE's composite return was 21.75 percent; Sprint's composite return was 19.48 percent; and the composite return for all other price cap carriers was 19.81 percent.⁴² Net revenue increases resulting from modifications to the high-cost support system are particularly inappropriate in view of the recent earnings experience of the price cap LECs.

The Notice also presents the tentative conclusion that any necessary reductions should be implemented by requiring carriers to make an exogenous downward adjustment to the revenue requirement of the common line basket.⁴³ This basket includes all non-traffic sensitive access elements.⁴⁴

The focus of high-cost support is to recognize that the costs of local access facilities (specifically local loops) are unusually high in some areas — particularly

⁴⁰ Price Cap Performance Review for Local Exchange Carriers and Access Charge Reform, *Fourth Report and Order in CC Docket N. 941 and Second Report and Order in CC Docket No., 96-262*, 12 FCC Rcd 16642 (1997), appeal pending sub nom. *USTA v. FCC*, No. 97-1469 (D.C. Cir. 1997).

⁴¹ Common Carrier Bureau Website, Rate of Return Reports, May 20, 1999.

⁴² *Id.*

⁴³ Notice, para. 130.

⁴⁴ FCC Rules, § 61.42(d).

areas where there are relatively few subscribers. Therefore, it is appropriate that the offsetting adjustment be made to the common line basket, rather than any of the other three baskets for LEC interstate services which address (1) traffic sensitive switched access; (2) the trunking elements of switched access, and (3) non-access-related interstate services.⁴⁵

The principal rate elements for switched access services in the common line basket are the presubscribed interexchange carrier charge ("PICC") and the end user common line charge, usually called the subscriber line charge ("SLC").⁴⁶ According to the procedures that the Commission has established, the initial effect of a reduction in revenue requirement for the common line basket is to reduce the aggregate revenue requirement for SLCs and the revenue requirement for multi-line PICCs.⁴⁷ In the longer run, the effect will be to defer scheduled increases in the residential and single-line business PICCs.⁴⁸

A reduction in the multi-line PICC is clearly warranted. Although the PICC is levied on interexchange carriers ("IXCs"), end users have a stake in this rate element because nearly all IXCs pass the charge along to their subscribers. The present PICCs vary significantly among types of subscribers. At the end of 1998, the PICC for multi-line business customers averaged \$2.38 monthly, the PICC for non-primary residential lines averaged \$1.38 monthly, and the PICC for residential and single-line business users averaged only \$0.49 monthly.⁴⁹ There is no cost basis for these

45 *Id.*

46 *Id.*, § 69.152 and 69.153.

47 Notice para. 130.

48 *Id.*

49 Monitoring Report Prepared by the Federal and State Staff for the Federal-State Joint Board, December 1998 ("Monitoring Report"), Table 7.14. The figures in the text are for all LECs under the Commission's jurisdiction. The corresponding averages for all price cap LECs are \$2.51 for

differences. In fact, larger business, who are multi-line customers, are usually located in densely developed areas where the unit costs of access are less. Thus, the initial reduction in multi-line PICCs will help to eliminate an unjustified disparity.

The reduction in the aggregate revenue requirement for SLCs will also benefit end users. SLCs also vary significantly by type of subscriber. At the end of 1998, the SLC for multi-line business customers averaged \$7.11 monthly, and the SLC for non-primary residential lines averaged \$4.99 monthly.⁵⁰ These charges are substantially above the \$3.50 cap for primary residential lines. As with the PICCs, there is no cost basis for these disparities. Therefore, if the overall amount of revenue to be gained from SLCs is cut, the emphasis should be on reductions in the SLCs for business multi-lines. Any reduction in the SLCs for residence and business single lines should be matched proportionately by reductions in the SLCs for the other types of service.

B. Modifications in access charges should be designed to help reduce disparities among different subscriber groups.

As a means of reducing the total revenue from access charges, the Notice seeks comments on whether the Commission should reduce the SLC cap for primary residential and single-line business lines.⁵¹ GSA believes that the Commission should not adopt this plan. Indeed, as explained above, a reduction in the cap for residential and single business lines will increase the non-cost-based disparity between access charges for different types of lines.

multi-lines, \$1.38 for non-primary residential lines, and \$0.53 for primary residential and single business lines.

⁵⁰ Monitoring Report, Table 7.14. The figures in the text are for all LECs under the Commission's jurisdiction. The corresponding averages for all price cap LECs are \$6.00 for multi-lines and \$4.99 for non-primary residential lines.

⁵¹ Notice, para. 133.

Moreover, a reduction in the SLC cap for primary residential and single-line business lines will not further the goal of reducing implicit interstate support. Indeed, the Notice acknowledges that the current SLC cap on primary residential and single-line business lines results in implicit support for most of these lines.⁵² Also, the Notice explains that a reduction in the SLC cap would not reduce the support implicit in the multi-line PICC.⁵³ At the end of the transition period for access reform for price cap LECs, the combination of the SLC and PICC assessed to each line should permit carriers to recover the full interstate-allocated portion of common line costs from line-related charges.⁵⁴ A reduction in the SLC for primary residential and single-line business lines would delay completion of this transition, and result in a greater PICC for primary residential and single-line business lines.

As a corollary matter, the Commission seeks comments on whether price cap carriers should reduce their base factor portion ("BFP").⁵⁵ For carriers that determine their SLC based on the BFP, this step would result in reductions to the SLC for multi-line business and non-primary residential lines. Thus, the step would have the beneficial effect of reducing the SLC disparity noted above. However, as the Notice explains, the change in BFP would result in smaller reductions in multi-line PICCs.⁵⁶ The PICC for multi-line business customers averages \$2.28 monthly, while the PICC for residential and single-line business users is only \$0.53 monthly.⁵⁷ Thus, the disparity in PICCs for various groups of subscribers is even greater, proportionately,

52 *Id.*, para. 133.

53 *Id.*

54 *Id.*

55 *Id.*, para. 132.

56 *Id.*

57 Monitoring Report, Table 7.14.

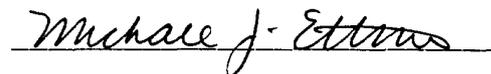
than the disparity in SLCs. A change in the BFP might ameliorate one disparity, but exacerbate another. Thus, unless it can be demonstrated that there is a net reduction in implicit subsidies, GSA recommends that the Commission not reduce the BFP factor at this time.

VI. CONCLUSION

As a major user of telecommunications services, GSA urges the Commission to implement the recommendations set forth in these Comments.

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I, MICHAEL J. ETTNER, do hereby certify that copies of the foregoing "Comments of the General Services Administration" were served this 23rd day of July, 1999, by hand delivery or postage paid to the following parties.

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