

**Before the
Federal Communications Commission
WASHINGTON, D.C.**

<i>IN THE MATTER OF</i>)	
)	
Price Cap Performance Review for Local Exchange Carriers)	CC DOCKET NO. 94-1
)	
Federal State Joint Board on Universal Service)	CC DOCKET NO. 96-45
)	
Low-Volume Long Distance Users)	CC DOCKET NO. 99-249
)	
Access Charge Reform)	CC DOCKET NO. 96-262

**COMMENTS OF THE COALITION FOR AFFORDABLE
LOCAL AND LONG DISTANCE SERVICE (“CALLS”)**

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Summary

The Coalition for Affordable Local and Long Distance Service (“CALLS”) plan is a comprehensive approach to universal service and interstate access charge reform. For a five year period, it settles issues which have been unresolved since the passage of the Telecommunications Act of 1996, and which have been the subject of debate at the Commission for over twenty years. Prompt adoption of the CALLS plan will deliver significant benefits to the American public that cannot be achieved through less comprehensive or less balanced measures. The plan assures affordable interstate rates for rural and low income Americans. It facilitates the deployment of broadband capable networks all across the United States, in both rural and urban areas and encourages competition among telecommunications providers while reducing consumer confusion and regulatory instability. In addition, the CALLS plan promotes investment in and deployment of competing broadband-capable networks in rural areas.

The CALLS plan has three inter-related and independent parts. Broadly, it establishes an interstate universal service fund mechanism, it consolidates and simplifies the patchwork of current loop charges, and it drives down interstate access usage rates approximately 50 percent below current levels. The CALLS plan also eliminates the pre-subscribed interstate carrier charge (“PICC”) as applied to residential and single business lines. This facet of the plan does not violate section 254(k) of the Communications Act or any other provision of law. The CALLS plan also harnesses the power of the market to drive broadband deployment, and removes disincentives to investment created by today’s distorted, implicit subsidy mechanisms.

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The Coalition for Affordable Local and Long Distance Service (“CALLS”) respectfully submits these Comments in response to the Notice of Proposed Rulemaking (“NPRM”) seeking comment on the CALLS comprehensive universal service and access charge reform proposal.¹ CALLS filed a detailed description, memorandum in support of the plan, and draft proposed rules, all of which the Commission incorporated into the NPRM.

The CALLS Plan is an opportunity for the Commission fundamentally to settle, for participating price cap carriers, the universal service and interstate access charge reform issues which have been unresolved in the almost four years since enactment of the Telecommunications Act of 1996, and which have been debated at the FCC for over twenty

¹ Access Charge Reform, *et al.*, CC Dkt. Nos. 96-262, 94-1, 99-249, 96-45, FCC 99-235, *Notice of Proposed Rulemaking* (rel. September 15, 1999).

years. Four years of proceedings and twenty years of debate and study is enough. The time has come for action.

Prompt adoption of the CALLS plan will deliver significant benefits to the American public that cannot be achieved through less comprehensive or less balanced measures. First, the CALLS plan will ensure affordable universal service for rural and low-income Americans. Second, it will facilitate investment in and deployment of broadband capable networks for rural America. Third, the plan supports the growth of competitive choice for residential and rural consumers. Fourth, the CALLS plan simplifies consumer bills and makes them predictable. No other alternative plan to date satisfies all these goals.

By contrast, permanent pre-subscribed interexchange carrier charges (“PICCs”), which have been proposed as a substitute for subscriber line charges (“SLCs”), do not resolve many of the long-standing access charge and universal service issues. Permanent PICCs are not compelled by section 254(k) of the Communications Act or any provision of law, are inefficient, and will slow the development of local competition in some areas. Permanent PICCs particularly hurt low income consumers whose interexchange carrier (“IXC”) PICC pass-throughs cannot be supported through the Lifeline program. Moreover, simply shifting SLCs into PICCs does nothing fundamentally to identify universal service support currently in interstate access charges or to move that support into competitively neutral and sustainable universal service support mechanisms. Permanent PICCs are pro-regulatory and anti-competitive, not pro-competitive and deregulatory.

As described in the Memorandum in Support of the CALLS plan, the plan has three inter-related and interdependent parts:

1. it establishes an interstate universal service fund mechanism, portable to competing local exchange carriers (“LECs”), that will provide \$650 million of explicit support to replace support currently implicit in interstate access charges, and it increases Lifeline support to ensure that the full SLC will continue to be waived for Lifeline subscribers;
2. it consolidates and simplifies the patchwork of current loop charges into one new subscriber line charge and provides for limited deaveraging of those charges in a manner that will not undermine comparable and affordable universal service;
3. it drives interstate access usage rates 50 percent below today’s rates, and then institutes a “freeze” at these lower rates.

The CALLS members have further refined their proposal to resolve certain issues initially left unresolved, and to clarify the proposal in light of the Commission’s *Pricing Flexibility Order*² and to reflect the development of interstate access competition. These modifications are set forth in Attachments A and B.

I. THE CALLS PLAN DELIVERS SIGNIFICANT PUBLIC INTEREST BENEFITS

A. The CALLS Plan Assures Affordable Interstate Rates In Rural and High Cost Areas and for Low Income Americans

Today, there is no explicit universal service mechanism to ensure that interstate access rates remain affordable in rural and high cost areas. The CALLS plan’s \$650 million in interstate universal service support, buttressed by a hard cap of \$7.00 on new SLCs after 2003

² Access Charge Reform, et. al., *Fifth Report and Order and Further Notice of Proposed Rulemaking*, CC Dkt. No. 96-262 et. al., FCC 99-206, 1999 FCC LEXIS 4200 (rel. August 27, 1999).

(with lower caps in earlier years), will ensure that interstate rates in rural areas remain affordable and stay within a “fair range” of urban rates.³ The explicit support in the plan will ensure that customers of price cap carriers in rural markets will continue to enjoy affordable telecommunications services. Moreover, because the explicit support provided under the CALLS plan increases the likelihood of rural competition, the CALLS plan makes it much more likely that the marketplace, rather than regulation, will ultimately deliver affordable service to rural America.

The CALLS Plan also increases Lifeline support for low-income consumers. Today, Lifeline consumers pay no SLC, but must pay IXC-billed PICC recovery charges, unless the IXC voluntarily waives that fee. Under the CALLS plan, the entire new SLC is waived through universal service support, and the residential PICC is eliminated.⁴ For Lifeline consumers, therefore, fixed monthly charges drop.

In addition, the CALLS plan will lead to lower interstate toll bills for consumers, including significant numbers of Lifeline consumers. Reducing toll bills directly addresses the leading cause of disconnection: inability to pay high toll charges.⁵ The history of telephone subscribership since 1984 confirms that lowering per minute charges by replacing those charges

³ Federal-State Joint Board on Universal Service, *Ninth Report and Order and Eighteenth Order on Reconsideration*, CC Dkt. No. 96-45, FCC 99-306, ¶ 38 (rel. November 2, 1999) (“Ninth R&O”). The CALLS plan imposes a cap of \$7 on SLCs for all residential lines (both primary and nonprimary), and for single business lines. A cap of \$9.20 is established for multiline business.

⁴ The funding required to enhance Lifeline is separate from, and in addition to, the \$650 million funding for the \$7 SLC cap.

⁵ Chesapeake and Potomac Telephone Company's Submission of Telephone Penetration Studies, Formal Case No. 850 (filed October 4, 1993); Field Research Corporation, *Affordability of Telephone Service – A Survey of Customers and Noncustomers*, 1993 (study funded by GTE-California and Pacific Bell, mandated by the California Public Utilities Commission); Milton Mueller & Jorge R. Schement, *Universal Service from the Bottom Up: A Profile of Telecommunications Access in Camden, New Jersey*, 12 *Information Society* 3 (April 1996); John Horrigan & Lodis Rhodes, *The Evolution of Universal Service in Texas* (September 1995) (working paper, LBJ School of Public Affairs). See also, Milton Mueller, Jr., *Universal Service*, at 172 (1997).

with flat-rate charges has been accompanied by an increase, rather than a decrease in subscribership. Notably, despite the IXCs' institution of retail PICC pass-throughs, subscribership is now at an all time high.⁶ The CALLS plan will lead to even higher telephone subscribership.

A study conducted by Joel Popkin & Co. for the Alliance for Public Technology found that the CALLS Plan created a \$1.2 billion increase in consumer welfare for residential consumers. Significantly, Popkin found that the CALLS plan benefits consumers "in all income groups and across all geographies," not just the well-off or urban consumer. The SLC caps and expanded Lifeline support were significant factors in ensuring that rich and poor, urban and rural alike benefit from the CALLS plan.

B. The CALLS Plan Promotes Investment In and Deployment of Competing Broadband-Capable Networks in Rural Areas, and Narrows the Digital Divide in Areas Without Dial-Up Internet Access

The CALLS plan promotes investment in and deployment of competing broadband-capable networks in rural areas both by rationalizing the economics of constructing networks to serve rural areas, and by encouraging the deployment of competing facilities in those areas. The CALLS plan harnesses the power of the market to drive broadband deployment (although it does not subsidize broadband service), and removes disincentives to investment created by today's distorted, implicit subsidy mechanisms.

As new entrants build out their networks, and as incumbents maintain and reconstruct

⁶ Alexander Belinfante, *Telephone Subscribership in the United States*, (Com Car. Bur., Ind. Anal. Div. rel. May 1999), at Table 1; see also, Federal-State Joint Board on Universal Service, Access Charge Reform, CC Docket Nos. 96-45, 96-262, *Seventh Report & Order and Thirteenth Order on Reconsideration* in CC Docket No. 96-45, *Fourth Report & Order* in CC Docket No. 96-262, and *Further Notice of Proposed Rulemaking*, at ¶ 38, 14 FCC Rcd 8077 (1999), *petition for review filed sub nom. Vermont Department of Public Service v. FCC*, No. 99-60530 (5th Cir., filed June 23, 1999) ("Seventh Report and Order").

existing networks, they will build broadband-capable networks. Because the CALLS plan creates a more straightforward and economically logical pricing and universal service support mechanism for voice grade telephone service, it will facilitate rational network investment that will also bring broadband capability to consumers. As telephone networks are built or re-built, telephone companies have an incentive to use architectures that will be compatible with broadband services. Similarly, as cable companies rebuild existing cable networks, they are also rebuilding those networks with broadband capability.⁷

The CALLS plan creates, for the first time, an interstate rate structure for participating price cap companies that encourages and supports rural infrastructure investment. As the FCC has observed, interstate access charges today contain three different sources of implicit universal service support: per minute access usage charges, geographically averaged rates, and higher business rates than residential rates.⁸ Under today's support system, the incumbent LEC collects "support" by serving urban areas and businesses, and through per minute access charges, not through its service to rural customers. As a result, under today's system, incumbent LECs have strong incentives to invest to protect those sources of "support," particularly in services to retain urban and business customers. At the same time, the current rate structure provides little incentive to invest in those rural areas where the costs of service far exceed revenues. The current system also creates disincentives for incumbent LECs to deploy technologies that would provide substitutes for those sources of "support."

By contrast, the CALLS plan evens out the investment incentives. Instead of collecting

⁷ See, Annual Assessment of the Status of Competition in Markets for Delivery of Video Programming, CS Dkt. 98-102, at ¶¶ 48-60 (rel. December 23, 1998).

⁸ Ninth R&O, at ¶ 15.

“support” by serving urban areas and businesses, under the CALLS plan incumbent LECs and their competitors collect universal service support when they actually serve customers in the rural areas. This change, together with geographically deaveraged SLCs, gives incumbent LECs a greater incentive to invest in rural areas, and makes the rural areas more attractive to investment by competing providers. The CALLS Plan therefore encourages deployment of broadband-capable networks into rural America.

Of course, even as broadband services are deployed, dial-up access will continue to be the predominant means for consumers to reach the Internet. There remain, however, parts of the United States that lack local dial-up Internet access. In these areas, it is still necessary to place a toll call to reach the Internet, or for the ISP to purchase a toll-free dial-up line. By lowering the cost of long distance service, the CALLS plan reduces the cost for consumers in these remote areas to reach the Internet and participate in e-commerce and other benefits of the Internet age.

C. The CALLS Plan Is An Important Step Forward In the Debate Over the ESP Exemption

By providing an explicit means to support universal service and by reducing interstate access usage rates to half of present levels, the CALLS plan will greatly narrow the current gap in regulatory treatment between basic and enhanced service traffic. This will dramatically reduce the scope of the debate over the Enhanced Service Provider (“ESP”) “exemption.”⁹

This “exemption” has been controversial and will only become more so as Internet telephony becomes more prevalent. Although the CALLS plan does not address the exemption

⁹ The 1996 Act uses the term “Information Service”, rather than “Enhanced Service.” The Commission has held that the terms are essentially identical. Federal-State Joint Board on Universal Service, *Report to Congress*, 13 F.C.C. Rcd. 11501, 11526 ¶¶ 50 (1998).

explicitly, by significantly reforming universal service and access charges, the CALLS plan substantially reduces the risk that artificial regulatory burdens might be imposed on the Internet.

First, since interstate access charges will no longer be a significant source of universal service support, universal service goals will be assured under the CALLS plan notwithstanding the exemption. By enhancing Lifeline support and creating a \$650 million explicit fund, the CALLS plan therefore substantially resolves today's tension between universal service goals and an unregulated Internet by preserving both.

Second, the debate over the exemption will become far less crucial because the CALLS plan reduces access rates to half the current levels. With substantially less money at stake, the ESP exemption will likely become a smaller — and less contentious — issue.

D. The CALLS Plan Will Reduce Customer Confusion and Simplify Long-Distance Bills

The CALLS plan reduces consumer confusion by eliminating needless and costly complexity in the current interstate access charge system. Today's interstate access charge system contains a patchwork of loop charges, some billed to the IXC on a per minute basis (i.e. the CCL), some billed to the consumer by the IXC after first being billed by the LEC to the IXC on a flat-rate basis (i.e. the PICC and the IXC-billed PICC pass-through), and some billed directly to the end user (i.e. the SLC). In particular, the fact that consumers now receive two flat-rate charges for loop costs, one from the incumbent LEC and one from the IXC, both baffles consumers and makes it harder to compare long distance plans. For the vast majority of residential consumers, this artificial division of loop charges is now pointless — they end up paying the combined total regardless of which carrier ultimately does the billing. The CALLS

plan consolidates these charges into a single charge, with rates in July 2000 at or below levels they would reach under current rules.

The CALLS plan further simplifies end-user charges by eliminating the artificial distinction between primary and non-primary lines, which has been a major source of customer confusion. The administration and billing of these different charges has also generated significant costs for carriers, which must ultimately be borne by consumers.

As the Commission has recognized in its *Truth in Billing* proceeding, competition functions best when customers understand what they are paying for and can make informed comparisons among service providers.¹⁰ By consolidating loop charges, the CALLS plan will make it easier for consumers to make informed and effective marketplace choices.

E. The CALLS Plan Will Promote Customer Choice Through Facilities-Based Competition

By establishing straightforward, economically rational prices and by supporting universal service through an explicit, competitively neutral universal service fund, the CALLS plan will promote consumer choice among facilities-based competitors. Straightforward charges empower consumers to make a choice among competing providers, thereby also sending potential entrants economically correct entry incentives. Because line charges are consolidated, the consumer selecting the service provider can more easily make head-to-head price comparisons.

In contrast, charges that are routed circuitously to the end user and averaged, such as PICC and CCL charges, can frustrate competition particularly where, through averaging, the

¹⁰ See generally, *Truth in Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 98-170, FCC 99-72 (rel. May 11, 1999).

consumer is not purchasing based on the full cost of providing the service (less any explicit universal service support). Averaging of CCL and PICC charges through averaged retail long distance rates spreads a portion of the costs to customers in other areas. Ironically because PICCs distort price signals to purchasers, it is the PICC, not the SLC, that frustrates direct entry and price competition, slowing the development of competition in the local market. As long as IXC PICC recovery fees are averaged across multiple companies and study areas, any scheme which relies on PICC charges as a mechanism to recover the cost of providing interexchange access will not promote competition.

The CALLS plan further promotes competition through the establishment of a portable \$650 million rural and high cost universal service fund. For the first time, entrants will be able to compete for and receive support that previously went only to the incumbent LEC through implicit support. All eligible telecommunications carriers will receive universal service support when they win and serve a customer in a more costly rural area.

The 1996 Act envisioned that consumers in all parts of the country would be able to have a choice of telecommunications provider.¹¹ The CALLS Plan brings that vision a significant step closer to reality.

F. The CALLS Plan Provides Regulatory Stability For At Least Five Years Which Will Encourage Investment and Competition

The CALLS plan provides a stable investment environment that will permit all companies, incumbents and entrants alike, to invest in the facilities and services necessary to compete. Competition, particularly widespread, facilities-based competition, will not come without substantial investment. The present regulatory environment is, however, anything but

¹¹ H.R. Report No. 104-458, at 1 (1996).

stable, and the regulatory uncertainty chills investment.

The Commission has the opportunity now to stabilize this environment for both industry and consumers. In the price caps docket alone, over the past five years, incumbent LECs have been under 3 separate price cap plans, all with different X-factors, different sharing schemes, and different financial risks and rewards. Instead of three price cap plans in the last five years, the CALLS plan presents one plan for five years.¹² The stability that the CALLS plan will provide is much more consistent with the investment conditions necessary to develop a truly competitive marketplace. The CALLS plan's five year comprehensive access, universal service, and price cap plan will provide a necessary bridge to a much more competitive and innovative communications marketplace.

II. PERMANENT PICCS ARE NOT LEGALLY COMPELLED, AND WOULD UNDERMINE UNIVERSAL SERVICE AND OTHER PUBLIC INTEREST GOALS

PICCs are an inefficient, confusing, and expensive mechanism for recovering loop costs that ultimately harm rural and low income consumers. Moreover, PICCs are not legally compelled by section 254(k) of the Communications Act, or any other provision of law. Continued reliance on residential and single line business PICCs, either alone or as part of a comprehensive reform package, is therefore contrary to the public interest.

A. Permanent PICCs are Not Compelled by Section 254(k)

Section 254(k) of the Act does not prohibit LECs from using a SLC to recover interstate costs associated with providing the local loop. Section 254(k) states that:

¹² *United States Telephone Ass'n v. FCC*, 188 F.3d 521 (1999).

A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

Relying on this language, some have argued that “the loop and its associated elements are joint and common facilities used to provide all telecommunications services, including those included within the definition of ‘universal service’” and that therefore the SLC cannot recover all loop costs.¹³

Section 254(k) simply does not apply to the question of whether prices should be set through SLCs alone or through a combination SLCs and PICCs. The federal loop pricing mechanism under the CALLS plan does not involve the allocation of joint and common costs among services, but rather is simply a pricing mechanism for interstate costs assigned to the loop. The United States Court of Appeals for the Eighth Circuit has already agreed with this analysis and rejected arguments to the contrary in *Southwestern Bell Telephone Co. v. FCC* — a case in this docket that is now the law of the land and not subject to appeal or reconsideration.¹⁴ In that case, the Texas Public Utility Counsel had challenged provisions of the May 1997 Interstate Access Charge Order that increased caps on multiline business and non-primary residential SLCs.¹⁵ In many parts of the country, multiline business SLCs, and to a

¹³ See, Comments of the State Members of the Federal-State Joint Board on Universal Service, CC Dkt. 96-45 and 96-262, at 5 (filed July 23, 1999) (“State Members Comments”).

¹⁴ *Southwestern Bell Telephone Company v. FCC*, 153 F.3d 523 (8th Cir. 1998).

¹⁵ Telephone service to multiline business and non-primary residential lines were — and are — included in the definition of universal service.

lesser extent non-primary residential SLCs, recover all interstate allocated loop costs associated with service to multiline business or non-primary residential lines.

In that appeal, the Texas Public Utility Counsel argued that recovery of non-traffic sensitive loop costs must be shared by the consumer through end-user charges and the IXC through access charges. The Eighth Circuit rejected the argument, noting that “simply by requesting telephone service, the subscriber ‘causes’ local loop costs, whether it uses the service for intrastate or interstate calls. . . . It is therefore appropriate and rational for the Commission to impose those costs on the end user.”¹⁶

The Texas Public Utility Counsel also argued that 254(k) precluded recovery of all of the costs of multiline business and non-primary residential lines through SLCs on the grounds that doing so would cause universal service to bear an unreasonable portion of the joint and common costs. The Commission, in its brief before the Eighth Circuit, countered that “[t]he SLC is a method of recovering loop costs — not an allocation of costs between supported and unsupported services. Thus, section 254(k) simply does not speak to whether the Commission may raise the SLC cap.”¹⁷ The Eighth Circuit agreed with the Commission, holding that, “[b]ecause the SLC is a method of recovering loop costs, not an allocation of those costs between supported and unsupported services, § 254(k) is not implicated.”¹⁸

The ruling in *SWBT v. FCC* cannot be distinguished on the grounds that the rates at issue in the case were multiline business and non-primary rather than primary residential rates. The Commission has included all lines — primary, non-primary, and multiline business — within the

¹⁶ *Id.*, at 558.

¹⁷ Brief of the FCC at 148, *Id.*, Nos. 97-2618 *et. al.*, (filed October 28, 1997).

¹⁸ *Southwestern Bell*, at 559.

definition of universal service, and section 254(k) does not itself distinguish between line classes. Section 254(k), therefore, cannot be read to permit full recovery of loop costs through the SLC for multiline business and nonprimary lines, but require the use of both SLCs and PICCs to recover loop costs associated with primary residential lines.

Functionally, the marketplace has vindicated the Eighth Circuit's interpretation of section 254(k) by demonstrating how a pricing requirement that would legally require the creation of a PICC would be pointless and counterproductive. Today, consumers pay both the SLC and the IXC-billed PICC recovery fees. There is no reason here for the Commission to assume that section 254(k) compels pointless behavior.

In addition, the Texas Public Utility Counsel argued that recovering loop costs entirely from the SLC constituted an impermissible subsidy of competitive services by a non-competitive service. The Eighth Circuit dismissed that argument as well, concluding:

Whether a LEC allocates all of its local loop costs to the end-user or to the IXC, the LEC's competitive position as compared to other suppliers of local exchange facilities remains the same. Section 254(k) was not designed to regulate the apportionment of loop costs between end-users and IXCs because this allocation does not involve improperly shifting costs from a competitive to a non-competitive service.¹⁹

The first sentence of section 254(k) continues to have meaning: costs for loops subject to competition cannot, for example, be recovered from prices for loops not subject to competition.

¹⁹ *Id.*

The Eighth Circuit’s legal holdings are further supported by the Commission’s definition of universal service as all the functionality of a voice grade loop, along with local usage.²⁰ The Commission clearly stated that it was defining universal service in a functional sense, rather than on the basis of tariffed services.²¹ The Commission defined universal service as:

- “the ability to place calls”;²²
- “the ability to receive calls”;²³
- “the use of the loop, as well as that portion of the switch that is paid for by the end user . . . necessary to access an interexchange carrier’s network”;²⁴
- the ability to use voice grade access to the public switched network to call to an Internet Service Provider (although any toll charges were not included).²⁵

Under this comprehensive, functional definition of universal service, the loop is a facility installed specifically to allow provision of voice grade access to the public switched network, and therefore is a dedicated, not a common, cost of providing universal service.

Concluding that loops are a dedicated cost of universal service does not render the last sentence of section 254(k) meaningless. The last sentence of section 254(k) applies to costs that are, in fact, common between “voice grade access to the public switched network” and other services, such as general corporate overhead. The Commission has in place cost

²⁰ Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd 8776, 8781 (1997) (“Universal Service Order”).

²¹ *Id.*, at ¶ 61.

²² *Id.*, at ¶ 63.

²³ *Id.*

²⁴ *Id.*, at ¶ 76.

²⁵ See, *id.*, at 83.

allocation requirements to ensure that such common costs are allocated among services, and that these common costs are not borne entirely by regulated services.²⁶ As the Eighth Circuit held, these cost allocation rules effectively implement section 254(k).

B. Permanent PICCs Hurt Rural and Low Income Americans

Permanent PICCs, particularly for residential service, hurt rural and low-income Americans because IXC-billed PICC recovery fees cannot be supported by universal service. Section 254(e) limits universal service support to “eligible telecommunications carriers.” In order to be an eligible telecommunications carrier, however, a carrier must offer the services supported by universal service.²⁷ Because universal service is defined as voice grade access to the public switched network, an interexchange carrier that is not also providing local service cannot be an eligible telecommunications carrier.

Permanent PICCs would affirmatively hurt low income subscribers. Particularly, if the entire loop recovery, including today’s SLCs, were converted to a PICC, there would no longer be a SLC to be supported by universal service funding. However, the IXC-billed PICC recovery fee would increase, thereby directly increasing non-subsidized charges to the low income consumer. Such an action would be counterproductive, withdrawing support from the most needy, without any clear benefit.

In rural and high cost areas, if IXCs begin deaveraging PICC pass-throughs to study areas or even smaller geographic units, the total amount paid by the end user in SLCs and PICC recovery fees will, in some areas, far exceed the maximum cap of \$7.00 permitted under the

²⁶ See, Parts 32 and 64 of the Commission’s rules.

²⁷ 47 U.S.C. § 214(e).

CALLS plan. Under current Commission rules, there is no final cap on the level of residential PICC charges other than the price cap index. Preserving the PICC structure does not provide any mechanism to cap these combined charges.

C. PICCs Will Not Be “Competed Away” In the Absence Of Local Competition

Some believe that IXC recovery of the PICC is subject to competitive forces even when there is not a competitive provider of loops.²⁸ This claim cannot be substantiated. Virtually all consumers pay PICC pass-through charges, including customers of companies such as AT&T, MCI Worldcom, Sprint, Qwest, Frontier/Global Crossing, GTC Telecom, Excel, Planet Earth Communications, Costco, Matrix, and AOL’s affiliate plan.²⁹

In general, competition forces carriers to reduce costs either by becoming more efficient or purchasing lower cost inputs. IXCs do not have control over the amount they pay in PICC charges. Although some IXCs may attempt to achieve efficiencies by modifying billing systems or taking other measures that will enable them to deal more efficiently with the PICC charges, and some may have differing mixes of costs due to variations in customer base, competitive pressures will not reduce the average end user charge to an amount lower than the PICC charged by the LEC. In other words, competition among IXCs may reduce the inefficiencies created by the PICC, but it will never reduce the underlying PICC charge itself. Neither the PICC nor its associated retail end user charge will be “competed away.”

²⁸ State Members Comments, at 2.

²⁹ See, A Bell Tolls: The Telephone Service Clearinghouse, www.abelltolls.com/dayrate.htm.

D. PICC Charges Inefficiently Recover Loop Costs

PICC charges are an inefficient means of charging for loop use because they result in unnecessary transaction costs that ultimately are charged to the consumer. With the advent of IXC-billed PICC recovery fees, both the SLC and the PICC end up being charged to the end user customer. However, because PICCs are billed first to the IXC who must then bill the end user, PICCs result in substantial transactions costs that are not incurred when loop charges are recovered through SLCs. For example, the IXC must receive the incumbent LECs' bill for the PICCs, it must verify that bill, it must establish billing systems for billing the PICC recovery fee, and it must bill and collect the PICC recovery fee. All these transaction costs mean that today's interstate access charge system raises total charges to residential consumers by using the IXC as a third party collection mechanism for loop charges rather than billing those charges directly to the end user.

Furthermore, coordinating the massive billing systems of IXCs and ILECs to account for PICCs is difficult and expensive. These difficulties — including lack of customer-specific data and the fact that many IXC billing systems are not configured to bill customers varying amounts for multiple lines or different types of lines³⁰ — have led most IXCs to bill customers a set PICC charge per account, irrespective of the number or types of lines associated with the account. Such a rate structure adds to the PICC recovery fee for residential customers with only one line per account.

³⁰ The Commission has established separate PICC ceilings for primary residential and single-line business, non-primary residential, and single-line business lines.

For consumers, PICCs are a costly means to divide loop charges into two parts on different bills that consumers still end up paying anyway. These inefficiencies by themselves are a compelling reason to consolidate the SLC and the PICC into an end-user charge.

E. PICCs Unnecessarily Exacerbate Consumer Confusion.

As discussed above, the current rate structure has caused consumer bewilderment and frustration. Consumers justifiably are confused about why they get three charges (local service, SLC and IXC-billed PICC recovery) all for the same facility. One important benefit of the CALLS plan is that it will eliminate a significant part of this confusion by folding PICCs into the SLC.

Again, this customer confusion appears to be pointless. The vast majority of consumers end up paying all three charges as subscription fees, even if they elect to have no pre-subscribed long distance carrier. The division of loop charges between the SLC and the PICC in particular ends up accomplishing nothing other than to move the location of a charge from one portion of the bill to another. Consolidating all three loop/local connection charges on a single incumbent LEC bill reduces the source of confusion, and will make it much easier for a consumer to choose among competing local service offerings as competition develops.

III. CONCLUSION

The Commission now has a unique opportunity to resolve longstanding universal service and access reform issues that have been debated vigorously for more than two decades. Unless these issues are resolved now, the marketplace will continue to force an artificial choice between universal service and competition. The 1996 Act did not require such a choice: it

created provisions simultaneously to promote both goals. The time has come to strike the appropriate balance in implementing those provisions.

The CALLS plan is not just a plan that benefits industry: it will result in substantial public interest benefits if adopted and implemented promptly. No other comprehensive package exists that will deliver all these benefits. The CALLS plan not only is fully consistent with section 254 and other provisions of the Act, the Act's goals will be undermined without the CALLS solution. The Commission should move promptly to adopt the CALLS plan.

Respectfully submitted,

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ATTACHMENT A

Proposed Resolution of Footnote 86 Issues³¹

Issue 1: Whether, in multistate filing entities, the safeguard against revenues from deaveraged SLC exceeding the revenues that would be permitted for averaged SLC should be applied only at the filing entity level (Alternative 1), or at both the filing entity and study area levels (Alternative 2), see, Appendix A at 2.1.5.5.

Proposed Resolution: Paragraph 2.1.5.5 (Alternative 2) of the Agreement.

Issue 2: Whether, in establishing the minimum deaveraged SLC for the lowest cost SLC zone, the minimum deaveraged SLC should be increased to reflect a portion of revenues assigned to high cost zones but not offset by Interstate Access-related universal service support, see, Appendix A at 2.1.5.6.2.

Resolution: Revise paragraph 2.1.5.6.2 to read as follows:

2.1.5.6.2. Minimum Charge. Except where the incumbent LEC chooses to lower the deaveraged SLC through voluntary reductions, the minimum Zone Deaveraged Subscriber Line Charge in any zone in a study area is at least the lowest Zone Average Revenue Per Line for any zone in that study area. Zone Average Revenue Per Line is calculated to recover the difference between Study Area Universal Service Support (as defined in paragraph 2.2.3.2) and Study Area Above Cap Revenues (as defined in paragraph 2.2.3.1.2.) first from lines in Zone 1, until the SLCs in Zone 1 equal to the SLCs for Zone 2, and then from lines in Zones 1 and 2 equally until SLCs in those zones reach the Zone 3 SLC rates (with all SLCs subject to the applicable residential and multiline business lines nominal caps). This is done as follows:

- (1) Determine the difference between Study Area Above Cap Revenues and Study Area Universal Service Support.
- (2) Apply the difference calculated in Step 1 to increase the Zone 1 minimum SLC until either the entire difference has been offset or until the Zone 1 minimum Zone Deaveraged Subscriber Line Charge equals Zone Average Revenue Per Line for Zone 2.
- (3) Apply any remaining difference not offset by Step 2 to

³¹ See Footnote 86, Memorandum in Support of the Coalition for Affordable Local and Long Distance Service Plan (filed August 20, 1999).

increase the minimum Zone Deaveraged Subscriber Line Charge in both Zone 1 and Zone 2 until either the entire remaining difference has been offset or until the minimum Zone Deaveraged Subscriber Line Charge for Zones 1 and 2 equals Zone Average Revenue Per Line for Zone 3.

- (4) Apply any remaining difference not offset by Step 3 to increase the minimum Zone Deaveraged Subscriber Line Charge for Zone 1, Zone 2 and Zone 3 until either the entire remaining difference has been offset or until the minimum SLC for Zones 1, 2 and 3 equals Zone Average Revenue Per Line for Zone 4.

Issue 3: Whether limits on deaveraging through voluntary reductions are necessary, see, Appendix A at 2.1.5.6.2.

Resolution: Insert the following at the end of paragraph 2.1.5.6.2, above. Together with Issue 2, this is a complete replacement for existing paragraph 2.1.5.6.2.

The parties agree that current law governs any further minimum price restrictions on geographic deaveraging through voluntary reductions, and any party may, as under current law, seek to have a proposed tariff declared unlawful either in the tariffing process or pursuant to a complaint.

Issue 4: Whether Interstate Access-related universal service support should be distributed according to relative state-approved UNE-loop and port prices within each UNE loop pricing zone, see, Appendix A at 2.2.3.1.1.

Resolution: In paragraph 2.2.3.1.1., subparagraph (a), strike all text after "paragraph 2.1.1.3."

Issue 5: Whether, in establishing the portable per line support amount, the Interstate Access-related USF should be distributed first to the highest cost lines, see, Appendix A at 2.2.4.2.

Resolution: Adopt Paragraph 2.2.4.2 (Alternative 2).

ATTACHMENT B

Calculation of Average Traffic Sensitive Charge in light of the Pricing Flexibility Order and to Reflect Increased Access Competition

Proposed Resolution: Insert the following in the definition of “Average Traffic Sensitive Charge” --

Beginning on January 1, 2000, the participating price cap incumbent LECs will calculate the Average Traffic Sensitive (ATS) rate as the sum of the Local Switching component and the Transport component.

The Local Switching component will be calculated by dividing the proposed Local Switching revenues (Local Switching, LS trunk ports, Information Surcharge, and STP Port) by the base period Local Switching MOUs.

The Transport component will be calculated by dividing the proposed Transport revenues (Switched Direct Trunk Transport, Signaling for Switched Direct Trunk Transport, Entrance Facilities for Switched Access traffic, Tandem Switched Transport, Signaling for Tandem Switching and TIC) by ILEC only base period Transport MOUs (including meet-point billing arrangements for jointly-provided interstate access by an incumbent LEC and any other LEC).

For the purposes of determining whether the average traffic sensitive charge has reached the target rate, the calculations should include all the relevant revenues and minutes for services provided under generally available tariffs and services provided under contract tariffs. If in the future an access customer can use UNEs in lieu of switched access service for service other than to its local service end user, the revenues and demand for UNEs used to provide switched access services would be included in the calculation of the ATS rate. To the extent that UNEs are used to provide interstate access for CLEC end users for whom the CLEC is not also providing local service, the ILEC will measure such traffic or obtain from the CLEC a CLEC self-report of that demand and associated revenues.

The CALLS Plan was negotiated and submitted prior to the FCC’s adoption of its Fifth Report and Order and Further Notice of Proposed Rulemaking, FCC 99-206, 1999 FCC Lexis 4200 (rel. August 27, 1999)(“Pricing Flexibility Order”). In that order, the FCC permitted price

cap LECs, under certain conditions, to offer various interstate access services under contract tariffs or, when Phase 2 conditions are met, without cost support and on one day's notice. The Commission expressly removed contract tariffs and Phase 2 tariffs from price caps. The CALLS Plan, however, did not distinguish between tariffs under price caps and contract or Phase 2 tariffs for the purposes of calculating average traffic sensitive charge.

This proposed modification harmonizes the CALLS Plan with the pricing flexibility order by making clear that prices for services outside of price caps are included for the purposes of determining whether the average traffic sensitive charge has reached the target rate. The proposed modification also recognizes that with increasing access competition, a more accurate average switched access rate is calculated by separating local switching from transport and using the traffic transiting each set of facilities separately to calculate the average charge.