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Before the=20
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Petition for Reconsideration of Proposed First) DA 99-2780
Quarter 2000 Universal Service Contribution)
Factor) =20
Federal State Joint Board for) CC Docket No. 96-45
Universal Service

Petition for Reconsideration

1. On December 10, 1999, the Federal Communication Commission (FCC)=20
Common=20

Carrier Bureau (CCB) released Public Notice, DA 99 - 2780, proposing first=20
quarter=20

2000 Universal Service Contribution Factors. The Notice sets=20
telecommunication=20

carrier contribution levels for the first quarter of the year 2000. The=20
Notice=20

also directs the Universal Service Administrative Company (USAC) to allocate=
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one quarter of unspent year one schools and libraries program funds to the=20
reduction of carriers=92 first quarter contributions.=20

2. I ask the Commission to reconsider the CCB decision. Specifically, I ask=
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the Commission to reconsider the CCB decision to reduce contributions using=20
school and library program year one carryover funds to the extent the CCB ha=
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ordered. I also ask the Commission to allow unspent year one schools and=20
library program funds to be used to fund year two applications beyond the=20
\$2.25 billion cap, as provided in the Commission=92s original Report and=20
Order, CC Docket number 96-45 at 54.507 (a), and outlined herein.

Background=20

3. To support Universal Service programs, the FCC sets telecommunication=
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carrier contribution levels quarterly, as required under 54.709 (a), based o=
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recommendations by USAC. On July 30, 1999, the Fifth Circuit Court (court)=20
severely=20

limited the way contributions could be levied by the CCB. Consequently, it=20
was=20

necessary for the CCB to quickly seek ways to mitigate effects of the court=20
ruling.

4. USAC reported to the CCB that at least \$229 million from school and=20
library program year one collections would not be spent. The CCB then=20
directed USAC to reduce carrier contributions for the first quarter of 2000=20
by on fourth of the \$229 million estimated school and library program=20
carryover, or \$57.25 million. The CCB Justified this action by the=20
Commission=92s previous ruling, Public Notice, FCC 98-318 for rural health,=20
that unused contributions should be credited back to contributors. =20

Discussion

5. The court ruling of July 30 created a tremendous problem for the FCC=20
in=20

the way it collects funds for universal service programs. Unable to assess=20
intrastate revenues and putting international revenues into question, the FC=
C=20

must rely, to a much greater extent, on contributions from interstate=20
revenues=20

for program funding. Unfortunately, interstate carriers have been quick to=20
pass contribution assessments on to their customers in the form of line-item=
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charges on bills. A significant increase in contribution requirements for=20
interstate carriers may lead to even greater line-item charges for customers=
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and possible public backlash against the program. Unspent year one funds fro=
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the=20

schools and libraries program used to offset year two contributions offer th=
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FCC a=20

temporary reprieve from significant increases in interstate carrier=20
contributions.

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6. In making its decision to use unspent year one funds from the schools and=20
libraries program to offset provider contributions, the CCB cited as=20

precedent its actions with unused funds for the rural healthcare program.=20
Citing this action with regard to the schools and libraries program is=20

misleading. In the case of rural healthcare there was very little demand for=20
funds, demonstrated by very few applications for funding, resulting in a=20

situation where funding commitments were far less than fund allocation. On=20
the other hand, demand for funds in the schools and libraries program for=20
year one far exceeded available funds. In fact, schools and libraries progra=20
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administration believed demand was so great, it limited funding for internal=20
connections to applicants with discounts of seventy percent and above.=20

Applicants with discounts below seventy percent requesting funding for=20
internal connections in year one were all denied funding. Carryover funds=20
from the schools and libraries program are not the result of a lack of=20
demand, but rather gross miscalculation by the fund Administrator. As a part=20
y=20

this ongoing proceeding, I had not contemplated the possibility that the=20
precedent=20

set with the rural healthcare program would even be considered for schools=20
and libraries.

The possibility of large unused funds for the schools and libraries program=20
was=20

brought to the attention of the FCC (Weisiger, Petition for Consideration of=20
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Certain=20

Changes in E-rate Regulations at 13 through 15, dated February 18, 1999), and=20
d=20

to the=20

Administrator (letter to Kate Moore dated March 4, 1999). Both letters were=20 submitted=20

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before all year one commitment letters had been issued and with sufficient=20 time for both=20

the FCC and the Administrator to reevaluate funding levels and fund=20 additional applicants.

The CCB, in DA 99-2780 at 6, indicated that USAC reported a balance of approximately \$229 million after disbursements for year one of the schools=20 and libraries=20

program, although the final balance could change once all properly completed=20 forms are=20

received from schools and libraries. Based on limited information available=20 at the present=20

time, I expect the final unspent total for year one could be substantially=20 more and=20

approach \$500 million. If the final tally does increase from the \$229 millio=20 n=20 current=20

estimate, I would hope the FCC would investigate the causes of such a large=20 miscalculation.

Another consideration the CCB used to determine the fate of unspent year one=20 funds

from the schools and libraries program was the FCC=92s Twelfth Order on=20 Reconsideration=20

in CC Docket Number 96-45, released May 28, 1999. In this Order the FCC set=20 the=20

funding cap for schools and libraries at \$2.25 billion for the period from=20 July 1, 1999=20

through June 30, 2000. However, in the same Order, the FCC also limited fund=20 =20

disbursement to the same \$2.25 billion for the period. Several petitioners=20 asked the FCC=20

to fund the schools and libraries year two program to the funding cap of=\$2.25 billion,=20

with the assumption that any year one carryover funds would indeed be used t= o=20
fund=20

year two applications beyond the \$2.25 billion cap, in accordance with 54.50= 7=20
(a).

In a petition filed after the Twelfth Order, I asked the FCC to add any year= r=20
one=20

carryover funds to the \$2.25 billion cap (Weisiger, Petition for Rulemaking,= =20
received July=20

26, 1999). Several other parties have also filed similar petitions.
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Finally, although the Administrator has committed funding for all=20
applications at=20

all funding levels for all services received within the year two filing=20
window, some 2,000=20

applications were received outside the filing window - some delivered only=20
hours after=20

the filing window closed. Demand for funding by schools and libraries across= =20
the nation=20

remains strong and continues to exceed funding supply. Because a limited=20
amount of=20

funds will be available after funding applications filed within the window,=20
the Rules of=20

Priority may apply, which means applications filed only hours outside the=20
window may=20

not receive any funding.

Conclusion

The FCC must consider the political ramifications of significant increases i= n=20

contribution requirements for interstate carriers against the needs of=20
applicants that failed=20

to be funded in year one and filed funding requests outside the window in=20
year two. The=20

FCC must also determine if the Administrator is now better able to calculate=
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the amount=20

of money it commits to schools and libraries and more accurately estimate=20
committed-

but-unspent funds for year two. Based on year one performance, I remain=20
skeptical of the=20

Administrator=92s capability.=20

I propose to the FCC a twofold strategy. First, I suggest the FCC determine=20
the=20

potential for committed-but-unspent funds for year two, in percentage terms.=
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Once that=20

determination is made, the FCC should instruct the Administrator to increase=
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commitments by that percentage and begin funding applications received=20
outside the=20

filing window. Second, I propose a compromise for allocating year one=20
carryover funds. I=20

suggest the FCC reconsider its first quarter contribution levels, released i=
n=20
DA 99-2780,=20
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and adjust year one carryover funds applied to contributors to \$50 million,=20
for the first=20

quarter, and \$50 million each in succeeding quarter, until \$200 million has=20
been reached.=20

The FCC should also order USAC to provide updated estimates of additional=20
year one=20

carry over funds (beyond \$229 million) as they become available, but no late=
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than=20

January 21, 2000. Those additional funds, if any, should be used to fund=20
applications=20

received outside the year two filing window on a first-come-first-served=20
basis, once \$250=20

million has been committed to applicants under the Rules of Priority, under=20
54.507 (g).

Because a final tally of available funds will not be known before at least=20
early 2000,=20

applicants falling under the Rules of Priority should be funded immediately.=
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Once those=20

commitments are made, the balance of year one carryover funds (minus \$200=20
million=20

dedicated to carrier contribution reductions), and any remaining year two=20
funds, should=20

fund applications received outside the window on a first-come-first-served=20
basis. To=20

facilitate this, I ask the FCC to limit participants under the Rules of=20
Priority only to=20

applications received before December 20, 1999, and waive the public notice=20
requirement=20

of the Rules of Priority.

This action would be consistent with the original Report and Order,=20
54.507(a), and=20

would go a long way to correct mistakes and miscalculations made by the=20
Administrator=20

in year one funding that resulted in such a large carryover. If USAC reports=
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year one=20

carryover exceeds \$400 million (20 percent of year one contributions), I=20
urge the FCC to=20

open an inquiry of the Administrator to determine how a mistake of such=20
magnitude=20

could be made, and take steps to ensure it does not happen again.=20

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I submit this petition in the interest of satisfying the needs of applicants=
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in balance=20

with ongoing public and private support of this important program.

Respectfully submitted this 20th day of December, 1999,

Greg Weisiger

19 Tallwood trail
Palmyra, VA 22963

(804) 589-5130