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October 31, 2000

The Honorable Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street S.W.
Washington, D.C. 20554

Re: Comments of the Wyoming Public Service Commission on the Rural Task Force Recommendation, pursuant to public notice FCC-00J-3 in CC Docket No. 96-45

Dear Ms. Salas:

Enclosed herewith are the original and four copies of the referenced comments by the Wyoming Public Service Commission. Please file and distribute the same.

Yours very truly,

STEPHEN G. OXLEY
Secretary and Chief Counsel

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

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In the Matter of the)
Federal-State Joint Board)
on Universal Service)

CC Docket No. 96-45

COMMENTS OF THE WYOMING PUBLIC SERVICE COMMISSION ON
THE RURAL TASK FORCE RECOMMENDATION
(pursuant to public notice: FCC-00J-3)

The Wyoming Public Service Commission (WPSC) hereby submits its comments on the *Rural Task Force Recommendation To The Federal-State Joint Board On Universal Service* (the Recommendation). The WPSC is the agency of the State of Wyoming which has jurisdiction to regulate, *inter alia*, the intrastate activities of telecommunications companies serving in Wyoming. As such, the WPSC is an interested party in this proceeding. Additionally, the WPSC has been a full and active participant in federal universal service issues over the past several years. In this regard, we have had an observer or participant at every meeting of the Rural Task Force meeting.

The WPSC sincerely thanks the Rural Task Force for its dedication and the seriousness with which it went about the task of making recommendations regarding universal service for rural carriers. The members of the Rural Task Force devoted a significant portion of the past two and one-half years to this project. As a result, they were able to put forth a Recommendation that is comprehensive, supportable, and most importantly, consistent with the mandate of the federal Telecommunications Act of 1996. Thus, the WPSC encourages the Joint Board on Universal Service and the FCC to adopt the Rural Task Force's Recommendation in full and without further delay.

Wyoming's Interests

1. In 1995, the Wyoming enacted legislation that adopted a pro-competitive model for the telecommunications market in Wyoming. This competitive framework included: elimination of implicit subsidies from rates; movement of rates to total service long-run incremental cost (TSLRIC) over a defined transition period; implementation of intrastate equal access 1+ dialing; the differentiation of competitive and non-competitive services; and universal service fund support for essential services. As a result of these policy directives, Wyoming has been working during the past five years to eliminate implicit subsidies and

move rates to cost, with the result being increases in local service rates and reductions in intrastate switched access and toll rates. More than ninety percent of the lines in Wyoming are now priced at or above their TSLRIC cost, including a significant portion of the lines provided by Wyoming rural carriers.

2. The consequences of the adoption and sincere implementation of the competitive model are local service rates that are as high as \$92 per line per month. This rate is net of the federal funds that are received by the rural company, and the difference between this rate and an affordable price for customers must be borne by the Wyoming universal service fund (WUSF). Although the highest approved local service price in Wyoming is about \$92 per month, this should not be viewed as an anomaly, since other local providers have approved prices as follows:

TCT West	\$27.31 - \$45.08
Tri County Telephone	\$44.86 - \$45.08
Union Telephone	\$40.95 - \$90.35
Columbine Telephone	\$29.65 - \$40.46

It should be clearly noted that the prices discussed above are prior to taxes, surcharges, and subscriber line charges, which add another \$7 to \$10 to customers' bills. These figures are also, as noted, net of federal universal service support, but prior to WUSF support. This clearly shows that federal support is a critical component of telecommunications service in Wyoming. We are a prime example of why sufficient and predictable federal support must continue to be provided to rural carriers and their customers.

The Universal Service Principles of the federal Telecommunications Act of 1996

3. The WPSC is fully supportive of the Rural Task Force's Recommendation because it is consistent with the federal universal service mandates as found in Section 254 of the federal Telecommunications Act of 1996 and because the Recommendation incorporates and fairly applies each of the universal service principles of the Act. Now, it is the Joint Board's and FCC's turn to fulfill those statutory mandates by adopting and enacting the Recommendation completely and in an expedited manner. Time is of the essence. Inaction or delay amounts to treating rural customers as second class citizens. The unique characteristics of rural customers have been fully documented in the white papers supporting the Rural Task Force's Recommendation. They must not be ignored or relegated to the back burner any longer.

4. The first and foremost universal service principle in the 1996 Act, at Section 254(b)(1), mandates that "*Quality services should be available at just, reasonable, and affordable rates.*" This principle guides the Rural Task Force

Recommendation. First, the Recommendation rejects the use of a forward-looking cost model for support for rural carriers based on the doubts about the reasonableness of the cost estimates for rural carriers derived from the existing FCC model and based on model application results that would significantly reduce the current levels of support for rural carriers. The Recommendation is directly tied to the need for “*reasonable and affordable rates*”. Clearly, reducing the current level of federal support would not allow the maintenance of affordable rates for many of the existing rural carriers. This is specifically true in Wyoming, where rural carriers currently receive about \$12 million annually in high cost loop support alone, or an average of \$20 per line per month. Consider the negative impact of having to add another \$20 per line per month to the current \$50 rate. Consider the equally unacceptable alternative of being forced to add another 6% to 7% to all Wyoming intrastate bills to recover the lost \$12 million annually. Clearly, the Rural Task Force understood that adoption of the forward-looking cost model was not an appropriate way to maintain “*just, reasonable and affordable*” rates.

5. The second Universal Service Principle found at Section 254(b)(2) of the 1996 Act is that “*Access to advanced telecommunications and information services should be provided in all regions of the Nation.*” This too is embodied in the Recommendation and should be adopted as integral part of the comprehensive Recommendation. The Recommendation acknowledges the existing state of the network and does not make unreasonable or unrealistic proposals. It, for example, does not mandate immediate high speed data access to every home or business in order for a company to continue to qualify for support. Rather, it takes the rational approach of a “no barriers policy” as new plant is added and as technology becomes widely available and affordable. It encourages growth in investment and focuses many of its support level recommendations on investment levels. Support should be provided at a level that lets rural customers have the same access to advanced services as that offered to non-rural customers, if those customers are willing to pay the price of the advanced service offering. Rural carriers continue to replace distribution plant to accommodate the data and information needs of their customers but will not continue to make this investment to unload loops and provide more transport plant with shorter loop lengths if some recognition of the high cost of doing so is absent from the support mechanism. The “no barriers” recommendation is reasonable and should be supported. The FCC should also consider this as it makes its continuing review of the “evolving level of telecommunications services” which should receive universal service support.

6. The third universal service principle, found at Section 254(b)(3) of the 1996 Act, is that “*Consumers in all regions of the Nation . . . should have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.*” Comparable rates and services are critical to the continuation of ubiquitous

telecommunications services throughout the Nation. While the Rural Task Force rejected a funding model that would significantly reduce the size of the fund, it also did not recommend a model that would drastically increase the size of the fund or allow it to become uncontrollable. The Recommendation begins with the current method of support which already requires rural carriers to have costs higher than the national average before any support is given. Even then, support is graduated so that the most support goes to the companies with the highest costs. Additionally, the Recommendation continues to recognize that the fund should not be uncontrolled. While The Recommendation proposes to lift the current cap on the fund, thus rebasing the fund in the first year, it then proposes a new and different cap. The fund size, while larger than today's fund, would still be subject to parameters regarding its size. It is proposed to grow by line counts and support for unusually large investment. Again, although this incents carriers to make needed investments in the telecommunications infrastructure, those investments must still be sound and supportable with economic and business studies, since only partial support would be provided for that investment. This is precisely the kind of fund that is needed -- one which supports only areas with higher than average costs while still providing incentive for carriers to invest wisely.

7. The Recommendation also contains accountability provisions, which are important to maintain the integrity and effective purpose of the support. Not only does the Recommendation describe the accountability that is present through the National Exchange Carrier Association (NECA) process and actions, it also recommends that state regulators have a role in fund accountability. The WPSC supports the inclusion of the states in this process because state regulators are closest to the specific need for the funding. In the case of Wyoming, we have been moving toward a requirement that all federal and state funds be credited back to customers' bills directly to offset the changes in rates that have occurred with the implementation of our state mandate to eliminate implicit rate subsidies. Other states may find it useful to actually use the funds to reimburse companies for the building or improvement of telecommunications infrastructure. States and providers should not be tied to one use of the support provided by the federal fund, but should work together to best utilize that money for the benefit of customers and to carry out the universal service mandates of the 1996 Act. In this regard, it is reasonable to expect states to report and account for how the funds were used on an annual basis, as they are required to do regarding the support provided to non-rural carriers.

8. The Recommendation also contains *Principles for Preserving any Current Universal Service Support Which May be Implicit Within Interstate Access Charges* and begins a discussion of High Cost Fund III. The WPSC does not object to the concept of moving interstate access charges closer to cost or of making any implicit support contained in access charges explicit. We have been taking similar action on the intrastate level in Wyoming.

We do, however, have a concern based on recent experience with the CALLS proposal in which the level of explicit support provided did not match the amount of implicit subsidies removed from access which shifted a greater amount of cost recovery to end user charges. We are concerned that reductions in access rates for rural carriers will continue to put upward pressure on local charges and surcharges billed directly to customers, rather than being shifted from implicit universal service to explicit universal service support. An average Wyoming customer already sees surcharges and taxes added to the bill at a level ranging from about \$7.00 to \$10.00. These additional charges must be taken into account when determining whether rates are comparable and affordable. Thus, while we do not object to the concepts embodied in the High Cost III principles, we believe that it is critical to have some additional assurance that adequate explicit support will be provided; and this must not be done on a less than revenue neutral basis for each carrier. Additionally, affordability considerations must be part of the process of determining how explicit support from the High Cost III principles will be funded.

9. The fourth universal service principle, stated at Section 254(b)(4) of the 1996 Act, requires that “*All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.*” The Recommendation does not change the current method of assessing telecommunications carriers (which then often, in turn, assess customers) in order to obtain the funds necessary to provide the recommended support to rural carriers. Pursuant to recent federal court decisions, that assessment is currently applied only against revenues subject to the FCC’s jurisdiction; and it is not assessed against intrastate revenues. While some advocate application of the assessment against the broadest possible revenue base, we do not believe that it is necessary to address the issue in this proceeding. The court has already ruled on this issue, and there are more important issues to be addressed at this time than revisiting already-decided funding matters. It is also important to recognize that federal and state universal service funds work in concert. Many states support their state funds through intrastate-only assessments, thus providing a symmetrical complement to the federal assessment on interstate revenues only. These equitable and non-discriminatory contributions are in place, and the process should remain unchanged at this time.

10. The fifth universal service fund principle, stated at Section 254(b)(5) of the 1996 Act, is that “*There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.*” This principle is of central importance to rural states such as Wyoming. Rural carriers in Wyoming currently receive more than \$20 million annually in federal support based on the current long term support, local switching support, and high cost loop support mechanisms. This equates to an average of \$34 per month per line in the service areas of rural carriers. However, Wyoming’s rural average residential rates

currently exceed the nationwide urban rate, as reported by the FCC in its statistical report, and the difference will continue to grow as the remaining implicit subsidies are removed from Wyoming rural rates. Therefore, any reduction in federal support for rural carriers would be unacceptable and in direct violation of the federal mandate for sufficient support.

11. The Rural Task Force's Recommendation is consistent with the federal principles of "specific, predictable and sufficient" funding. It bases support on the carrier's costs compared to a national average cost. As stated earlier, this means that only carriers with truly high costs could receive support. The Recommendation provides specific support in that it provides a means to support normal expenditures and investment in rural areas, as well as a way to support additional investment and disaster relief. While one may not be able to predict support levels down to the dollar for any particular future period, the formulas provided in the Recommendation provide a level of predictability which allows one to know the basis for support and generally the range of that support. The formulas used are specific and start with a base calculation that is familiar to industry and regulators alike. The Rural Task Force also recognizes that, for funding predictability to have any real meaning or positive impact in rural areas, it is imperative that rural telephone companies have the incentive to invest in facilities over a period of certainty, not less than five years in length, as the Recommendation states. The support is sufficient in that it rebases the current mechanism, provides for some modest growth in the fund over time, and provides safety valves for unusual events or circumstances. These all fall within the principles mandated by the Act. The WPSC urges the Joint Board and the FCC to adopt the funding mechanisms and formulas in the Rural Task Force Recommendation.

12. The sixth universal service fund principle, stated at Section 254(b)(6) of the 1996 Act, relates to access to advanced services for schools, health care providers, and libraries. This specific area of support was not within the scope of the work done by the Rural Task Force; and the WPSC notes that school, library and health care support mechanisms were adopted more than three years ago by the FCC.

13. The seventh principle of universal service was adopted by the FCC in its May 1997 order, and it involves *Competitive Neutrality*. This principle is addressed extensively and sincerely by the Rural Task Force in its recommendations on portability, deaveraging, targeting, and transparency. The recommendations are competitively neutral, as they should be. Support will be on a per line basis and will be transferable from the incumbent to competitive carriers. The Recommendation delineates options that encourage the deaveraging and targeting of support to those areas and customers with truly high costs. We support the competitive framework that is supported by these recommendations.

Conclusion

14. The WPSC fully supports the comprehensive package of recommendations submitted by the Rural Task Force to the Joint Board on Universal Service. We believe that the Recommendations given to you by the Rural Task Force do an admirable job of addressing a comprehensive package of issues. We understand that the Recommendation reflects a balance of interests among competitive providers, incumbent providers, regulators, and consumer advocates. Even then, the Rural Task Force was able to provide the Recommendation on a full consensus basis and without dissenting opinions being attached by Task Force members. We believe that this broad, reasonable and workable consensus reached by disparate interests should carry a great deal of weight as you determine whether any other proposal could be offered that would be as comprehensive and contain the same balance. We think not.

The unresolved issues of rural high cost support still linger on unacceptably. Mechanisms that fairly address the real needs and affordability issues of rural America must no longer take second place. They must be addressed adequately, and they must be addressed now. The Recommendation provides an excellent and well reasoned solution. Therefore, we urge your adoption of this Recommendation and encourage its implementation without delay.

Respectfully submitted this 31st day of October, 2000.

Sincerely,


STEVE ELLENBECKER
Chairman

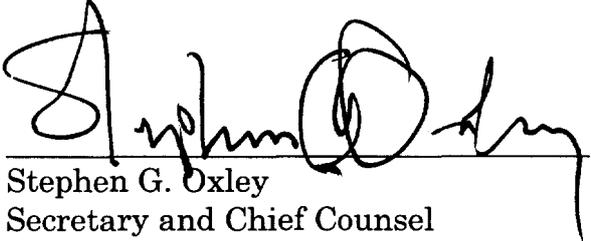

STEVE FURTNEY
Deputy Chair


KRISTIN H. LEE
Commissioner

Certificate of Service

I, Stephen G. Oxley, hereby certify that, on the date set forth below, I served copies of the within and foregoing Comments of the Wyoming Public Service Commission on the Rural Task Force Recommendation, pursuant to public notice FCC-00J-3 in CC Docket No. 96-45 by first class mail upon the service list established by the Commission and otherwise as directed thereby.

Dated: October 31, 2000.



Stephen G. Oxley
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