

November 29, 2000

Federal-State Joint Board on Universal Service
Attn: Magalie Roman Salas, Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20037

**RE: Federal-State Joint Board on Universal Service, CC Docket 96-45,
Comments on the Rural Task Force Recommendation, FCC Public Notice 00J-3**

Dear Joint Board Members:

Western Telephone Company submits this letter as its reply comments in the above referenced proceeding in response to FCC Public Notice 00J-3, dated October 4, 2000. By such Notice the Commission has asked that comments be submitted to the Federal-State Joint Board on universal service regarding the recent Rural Task Force Recommendation that includes various proposals for revising the federal universal service support mechanism for rural carriers. Western Telephone Company is a local exchange carrier operating in the State of South Dakota that presently serves approximately 1,124 exchange access lines within three exchange areas in the State. We operate as a "rural telephone company" as defined in 47 U.S.C. § 153(37) and have been designated as an eligible telecommunications carrier within our established service area. As a telecommunications company committed to meeting universal service obligations within its' service area, Western Telephone Company has a strong interest in this proceeding and will be impacted by any of the proposals that are ultimately adopted.

With respect to the Rural Task Force ("RTF") Recommendation, Western Telephone Company wishes to emphasize its support for the comments submitted and positions taken by the South Dakota Independent Telephone Coalition ("SDITC") and the National Telephone Cooperative Association ("NTCA").

Generally, Western Telephone Company sees the specific proposals presented in the RTF's Recommendation as very positive. The Recommendation appropriately recognizes all of the unique problems that are presented in converting the present system of federal universal service support to a mechanism that will be sustainable and sufficient as markets become more competitive. Many of the proposals contained in the RTF Recommendation would improve the current rural carrier support mechanism and the Recommendation also gives proper recognition to the need for additional universal service support in conjunction with undertaking any interstate access reform. Western Telephone Company commends the RTF for its substantial work and generally supports the RTF Recommendation.

In some limited respects, however, Western Telephone Company believes the RTF's Recommendation falls short of meeting the specific mandate found in Section 254(b)(4) of the Communications Act for "sufficient" Federal and State mechanisms to preserve and advance universal service. Since release of the RTF Recommendation a group of national telecommunications organizations consisting of the NTCA, National Rural Telecom Association ("NRTA"), Organization for the Protection and Advancement of Small Telephone Companies ("OPASTCO"), and the United States Telecom

Association (“USTA”) have filed with the Commission a Petition for Rulemaking. In this Petition, dated October 20, 2000, these organizations, identifying themselves as the LEC “Multi-Association Group” (“MAG”) have presented a holistic plan for reforming the Commission’s regulation of incumbent LECs that are not subject to price cap regulation (non-price cap LECs, including all rural carriers). The plan presented by MAG to the Commission offers a comprehensive approach that is intended to address not only universal service reform, but also interstate access reform and incentive regulation. This comprehensive plan takes the same policy direction as the RTF Recommendation, but with respect to universal service reform there are some differences. In general, Western Telephone Company believes that the MAG Plan with these differences is more in line with the intent of Congress as demonstrated by the universal service principles stated in Section 254 of the Communications Act.

The RTF states in its final recommendation that “the heart of the Congressional directive is contained in the universal service principles of Section 254.” Section 254(b) expressly states that universal service support should not only be “specific” and “predictable”, but also “sufficient.” Western Telephone Company urges the Joint Board to consider the MAG Plan in tandem with the RTF recommendation and to stay committed in its review process to meeting all of the federal principles including the sufficiency criteria.

Western Telephone Company strongly supports the decision of the RTF to recommend an embedded cost method rather than a proxy method to identify universal service costs. The RTF conclusions on such point are supported by substantial data documenting the differences between rural service areas and rural carriers and is also consistent with various provisions in the Communications Act which recognize the unique circumstances faced by rural carriers. In the Telecommunications Act of 1996, Congress rejected a one-size-fits-all approach for telecommunications companies, and enacted special provisions for rural telephone companies. As both SDITC and NTCA note, these provisions provide clear legal grounds for the RTF decision to treat rural carriers differently in recommending a new universal service support mechanism.

Western Telephone Company also supports the RTF proposals that would incorporate more flexibility into the existing cap on the High Cost Loop fund. We see all of the proposed cap changes as being positive, but insofar as any fund cap has the potential to deny recovery for infrastructure investments that would otherwise qualify as being necessary for universal service, Western Telephone Company is concerned. It is our belief that any cap will in some cases slow the deployment of new technology and advanced services in high cost rural areas. This potential is contrary to the provisions found in Section 254 of the Communications Act which are intended to renew and actually strengthened the national commitment to universal service and also the provisions in Section 706 of the Act which are intended to encourage the reasonable and timely deployment of advanced telecommunications services to all Americans.

Despite the various RTF proposals that would incorporate flexibility into the new cap that is proposed, there will be instances where carriers will be deprived of valid recovery and this seems counter to the RTF’s “no barrier to advanced services” principles. Western Telephone Company urges the Joint Board to give the utmost priority to making sure that universal service support is sufficient for all areas and to steer clear of any cap on the high cost fund. If the Joint Board, however, concludes that a cap should be maintained on the High Cost Loop fund, Western Telephone Company believes a lowering of the RTF’s 14% safety net qualification factor should be considered. We believe this percentage is too extreme and that it would only very rarely offer any additional assistance to carriers that are making substantial and necessary infrastructure investments. At this point, there also does not appear

to be much of an evidentiary record behind the 14% number and we would encourage the Joint Board to do more study and arrive at a factor that is less of a disincentive to rural area investment.

On the subject of disaggregating universal service support, Western Telephone Company agrees with the RTF that disaggregation is imperative at the point where competition enters the rural carrier service area. Disaggregation is necessary to accurately target support and to prevent cream skimming by new entrants that may only be interested in serving the most attractive pockets in rural areas. Western Telephone Company also agrees with the RTF decision to permit LECs to choose between various disaggregation paths as a means of taking into account individual company circumstances.

Nonetheless, Western Telephone Company does not believe that the proposal for disaggregation contained in "Path 3" of the RTF recommendation that may effectively limit disaggregation to two zones per wire center is adequate or fair. "Path 2" of the RTF's Recommendation may be offered as a solution for those cases where two zones would not be adequate, but as specifically written it does not seem to offer a feasible alternative. The RTF's White Paper No. 5 emphasizes the need to accurately target support within high-cost areas. In addition, the need to achieve competitive neutrality through proper disaggregation is referenced as an important goal. Western Telephone Company believes that the diverse population characteristics and terrain found in rural service areas renders the proposed two zones within "Path 3" wholly inadequate. Limiting the disaggregation of universal service support to only two zones would not in many cases come close to fairly targeting support. Those areas most in need of support could be deprived of universal service funding and an unfair arbitrage opportunity would be created for competitive eligible telecommunications carriers. The process for porting support between competing carriers based on only one of the carrier's costs in itself creates arbitrage opportunities, this should not be worsened by mandating disaggregation at an insufficient level.

Western Telephone Company suggests that the Joint Board revise "Path 3" to allow for at least three disaggregation zones per wire center, for those carriers who self-certify. Doing so would be relatively simple, inexpensive to administer, and easily understandable. The end result would be a more accurate representation of actual costs of providing service, and would produce a better match of support with costs. A three zone disaggregation plan is embraced in the MAG Plan, and Western Telephone Company reiterates its support for a Joint Board decision in the present proceeding that is carefully coordinated with the MAG Plan.

As another means of addressing this concern, the Joint Board should consider revising "Path 2" to indicate that any disaggregation plan that is given state commission approval under such Path would be in effect for a minimum period of years. This would allow for greater stability and perhaps bring more justification to pursuing "Path 2" as an option for disaggregating support within a rural service area.

Respectfully submitted,

Western Telephone Company

By: Harold Brown
General Manager