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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie R. Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W., TW-A325  
Washington, D.C. 20554

Re: Ex Parte Notice  
CC Docket No. 96-45, CC Docket No. 00-256

Dear Ms. Salas:

Today, Katie King, Eric Einhorn, Paul Garnett, Gene Fullano, Greg Guice, and Bill Sher of the Common Carrier Bureau met with Scott Reiter and Dan Mitchell of the National Telephone Cooperative Association. During our meeting we discussed NTCA's Petition for Reconsideration and Clarification concerning the Commission's Rural Universal Service Support Order and resulting rules. The discussion focused exclusively on the clarification of rule 47 C.F.R. § 36.603(a), which describes the calculation of the rural portion of the national loop cost expense adjustment. The attached documents were provided to the Commission's staff to assist in clarifying the rule and explaining NTCA's position.

In accordance with the FCC's rules, an original and two copies of this letter are being filed with the Secretary's office. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in black ink that reads "Daniel Mitchell". The signature is written in a cursive, flowing style.

Daniel Mitchell  
Sr. Regulatory Counsel

Attachments

cc: Katie King, FCC

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## 2002 Rural ILEC High Cost Loop Support (\$ Millions)

<u>Scenario</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
2000 Pre RTF Cap	\$785.4 *	\$829.3 **	\$869.1 **
2000 No Caps	\$903.9 *	\$1003.8 **	\$1092.7 **
2001 Based on RTF for entire year	N/A	\$961.0 **	\$1021.6 **
2001 Based on mid-year RTF and published rules	N/A	\$906.4 ***	\$960 ***

### Data Sources

\* NECA, October 1, 1999 USF Submission, Attachment E

\*\* Letter from William R. Gillis, Chair, Rural Task Force, to Magalie Roman Salas, FCC, dated November 10, 2000 at Attachment 2

\*\*\* NECA Reply Comments to NTCA Petition for Reconsideration and Clarification, CC Dockets Nos. 96-45 and 00-256, p5 (August 10, 2001)

## ATTACHMENT 1

This attachment contains specific proposed amendments to the Code of Federal Regulations that are appropriate to implement specific recommendations made by the Task Force in its Recommended Decisions submitted to the Joint Board on September 29, 2000.

### PROPOSED AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS

#### PART 36

##### Subpart F – Universal Service Fund

Section 36.601 (c) is amended by adding to the existing text the following:

The annual amount of the total loop cost expense adjustments for rural carriers shall consist of the loop cost expense adjustments, including amounts calculated pursuant to sections 36.612(a) and 36.631. Beginning January 1, 2001, the portion of the High Cost Loop (HCL) fund for Rural Carriers will be separate from the non-Rural Carriers' portion of the fund and will be computed pursuant to sections 36.601(d) and (e).

Section 36.601 (d) is added as follows:

The rural carrier portion of the total loop cost expense adjustment will be recomputed by the fund administrator, at the level required for Rural Carriers as if the indexed fund cap and the corporate limitation had not been in effect for support for the calendar year 2000 (i.e., an amount computed to be \$118,500,000, based on 1998 calendar year data using the October 1, 1999 data submission). For the years 2001 and beyond, the Rural Carrier portion of the total loop cost expense adjustment will be calculated pursuant to 36.601(e) and 36.601(f).

Section 36.601 (e) is added as follows:

The annual amount for the period 2001 and each year beyond of the total rural carrier loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total rural carrier loop cost expense adjustment for the immediately preceding calendar year, times one plus the Rural Growth Factor (RGF) as calculated in 36.601(f). For 2001, the computation will be based on a recomputed loop cost expense adjustment calculated pursuant to 36.601(d). For purposes of the HCL rural carrier loop cost expense adjustment calculation, the national average loop cost is frozen at \$240.00, pursuant to 36.622(a). If the list of supported services as prescribed in 54.101 is revised, the Commission will resize the limitation, if any, on the rural carrier loop cost expense adjustment. For purposes of calculating the total rural carrier loop cost expense adjustment, any support paid to Competitive Eligible Telecommunications Carriers (CETCs) will be excluded from the indexed cap calculation.

**Rule Adopted in 14<sup>th</sup> R&O, 22<sup>nd</sup> O ON RECON, & FNPRM  
IN CC DOCKET NO. 96-45, & R & O IN CC DOCKET NO. 00-256  
(The "RTF" Order reforming Universal Service Support for Rural Carriers)**

**§ 36.603 Calculation of rural incumbent local exchange carrier portion of nationwide loop cost expense adjustment.**

- (a) Effective July 1, 2001, the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment will be recomputed by the fund administrator as if the indexed cap calculated pursuant to § 36.601(c) and the corporate operations expense limitation calculated pursuant to § 36.621 had not been in effect for the calendar year 2000.

For the period July 1, 2001, to December 31, 2001, the annualized amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the non-capped amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the calendar year 2000, multiplied times one plus the Rural Growth Factor calculated pursuant to § 36.604.

Beginning January 1, 2002, the annual amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the immediately preceding calendar year, multiplied times one plus the Rural Growth Factor calculated pursuant to § 36.604.

11. The Recommendation preserves a predictable level of universal service support that will provide stability to rural carriers – incumbents and competitors – for planning their investments over the next several years. By recommending a flexible system for disaggregating support to establish the portable per-line support amount available to all eligible telecommunications carriers, the Rural Task Force seeks to encourage competitors to enter high-cost areas. In addition, the Rural Task Force recommends certain modifications to the caps and limitations on high-cost loop support. These modifications are generally designed to provide carriers serving rural areas with increased incentives to invest in new infrastructure and technologies. Under the current mechanism, high-cost loop support for rural carriers is estimated to be \$835 million in 2001. The Rural Task Force estimates that, under its Recommendation, high-cost loop support for rural carriers will be \$961 million in 2001 and increase to \$1.29 billion in 2005.<sup>31</sup> The Rural Task Force thus proposes to increase the rural high-cost loop fund by \$1.26 billion in the aggregate over the proposed five-year period, compared to the projected growth under the current mechanism.<sup>32</sup>

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<sup>31</sup> See Letter from William R. Gillis, Rural Task Force, to Magalie Roman Salas, FCC, dated November 10, 2000. The Rural Task Force support estimates include only high-cost loop support. In addition, based on USAC's first quarter 2001 projections, rural carriers will receive \$386 million in LSS, \$390 million in LTS, and \$52 million in interstate access support. See USAC 1<sup>st</sup> Quarter 2001 Projections. These amounts also do not include implicit universal service support that may be included in rural carrier interstate access charges. The Rural Task Force recommends that LSS and LTS remain in place for the duration of its proposed plan and does not comment on the existing interstate access support program for price cap companies.

<sup>32</sup> Joint Board staff estimate the \$1.26 billion increase as the difference between the Rural Task Force estimates and projected high-cost loop support based on the current rules. Staff derived current rule estimates by increasing the 2001 rural high-cost loop support estimate of \$835 million, reported in USAC's first quarter 2001 projections, by 2.86 percent annual industry line growth factor, as reported in the NECA October 2000 filing. See NECA Universal Service Fund 2000 Submission of 1999 Study Results, filed October 1, 2000.

28. We find that the modified embedded cost mechanism that we adopt in this Order strikes the appropriate balance at this time. In reaching this conclusion, we reject the contention that no increase in current high-cost loop support levels is warranted. In 1997, when the Commission decided to continue using an embedded cost mechanism to determine high-cost loop support for rural carriers pending permanent reform, it declined to adopt a Joint Board recommendation to freeze support for rural carriers at then-current levels.<sup>71</sup> In addition, the Commission did not anticipate that the embedded cost mechanism for rural carriers would be in place for this long. As stated above, there is a range of funding levels that could be deemed sufficient for purposes of the Act, and the Rural Task Force proposal is the product of the consensus of divergent interests. At this time, we find that it is reasonable to modify the high-cost loop support levels for rural carriers established in 1997 to account for changes in costs and technology, and to ensure that rural carriers can maintain existing facilities and make prudent facility upgrades until such time as a long-term rural plan is adopted. Based on the estimates provided by the Rural Task Force and the Joint Board, we estimate that the modified embedded cost mechanism will result in an increase in rural carrier support of approximately \$1.26 billion over the five-year period.<sup>72</sup> We anticipate that any increases in the universal service contribution factor as a result of such increases will be modest, ranging from two-tenths to four-tenths of one percent.<sup>73</sup>

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<sup>71</sup> *First Report and Order*, 12 FCC Rcd at 8939 para. 300. The Commission agreed with the state members of the Joint Board that “rural carriers may require a greater amount of support than fixed support mechanisms would provide, . . . [i]n order to maintain existing facilities and make prudent facility upgrades until such time as . . . forward-looking support mechanisms are in place.” *Id.*

<sup>72</sup> See Letter from William R. Gillis, Chair, Rural Task Force, to Magalie Roman Salas, FCC, dated November 10, 2000, at Attachment 2; *Recommended Decision* at para. 11 & n.32.

<sup>73</sup> The contribution factor for the second quarter of 2001 was approximately 6.88 percent. See *Proposed Second Quarter 2001 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 01-614 (rel. Mar. 9, 2001). Future changes in the overall amount of federal universal service support and changes in the contribution revenue base may impact these projections. For example, the Commission recently sought comment on proposals to streamline and reform the manner in which the Commission assesses contributions to the federal universal service mechanisms. See *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans With Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, Notice of Proposed Rulemaking, FCC 01-145 (rel. May 7, 2001).

35. Against this backdrop, the Rural Task Force recommended that the Commission retain an indexed cap on the high-cost loop support mechanism, but increase the size of the rural carrier portion of the high-cost loop support fund to reflect increased costs for rural carriers and tie the annual rate of growth of the rural carrier portion of the fund to an index that reflects increased costs and lines over time. In particular, the Rural Task Force recommended that the Commission recompute or “re-base” the indexed cap on the rural incumbent local exchange carrier portion of the high-cost loop support fund as if the indexed high-cost loop fund cap and a limitation on support for corporate operations expenses had not been in effect for the calendar year 2000.<sup>90</sup> The Rural Task Force also recommended that the Commission annually increase the re-based rural incumbent local exchange carrier portion of the high-cost loop support fund by an annual “rural growth factor” representing the sum of rural line growth and changes in a general inflation factor -- the United States Department of Commerce’s Gross Domestic Product-Chained Price Index (GDP-CPI).<sup>91</sup> The Rural Task Force further recommended that the Commission resize the indexed cap whenever the definition of supported services is changed.<sup>92</sup> Under the Rural Task Force’s proposal, “safety net additive” support,<sup>93</sup> support for acquired exchanges and “safety valve” support,<sup>94</sup> and support for competitive eligible telecommunications carriers<sup>95</sup> would be calculated without regard to the re-based cap on high-cost loop support. In other words, these forms of support would be “uncapped.”

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<sup>90</sup> See Rural Task Force Recommendation at 24. According to the Rural Task Force, re-basing will result in an initial \$118.5 million increase in the high-cost loop support fund, representing \$83.9 million from removing the overall cap on high-cost loop support and \$34.6 million from removing the corporate operations expense limitation, used when calculating high-cost loop support. See *id.* at 20-21. The corporate operations expense limitation is discussed in greater detail in section. *infra*.

<sup>91</sup> See Rural Task Force Recommendation at 24-25.

<sup>92</sup> *Id.* at 27.

<sup>93</sup> *Id.*; see *infra* discussion at paras.

<sup>94</sup> Rural Task Force Recommendation at 30. The Rural Task Force’s example of a “safety valve” mechanism for transferred exchanges includes a proposal to exclude loops transferred to rural telephone companies from the rural growth factor calculation. *Id.* at Appendix D. See *infra* discussion at paras.

<sup>95</sup> Rural Task Force Recommendation at 25; see *infra* discussion at paras.

## SEPARATE STATEMENT OF CHAIRMAN MICHAEL K. POWELL

*Re: Fourteenth Report and Order and Twenty-First Order on Reconsideration, Federal-State Joint Board on Universal Service and Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers (CC Dkt. Nos. 96-45, 00-256).*

I am pleased to support this Order because, today, the Commission finally takes action to fill in the third piece of the four-part universal service puzzle: high-cost loop support for rural carriers. The Commission filled in the first piece of this difficult puzzle in 1999 when it reformed high-cost loop support for non-rural carriers based on a forward-looking cost model. We moved the second piece of the puzzle into place in 2000 with the adoption of access reform and interstate access support for price cap carriers in the CALLS Order. Today's action on the third piece of the puzzle, rural high-cost loop support - and the pending proceeding on the puzzle's fourth piece, rural access reform - are two of the most important actions the Commission will take this year. Viewed as a whole, this comprehensive package of access and universal service reforms will ensure that consumers in all areas of the country, especially those living in high-cost rural areas, have access to telecommunications services at affordable rates.

A number of innovative rural carriers have begun to meet the challenge of ensuring that their customers benefit from the same twenty-first century telephone infrastructure that other Americans are starting to enjoy. Many others, however, have been less able to meet this challenge. In particular, in many cases, the costs of serving far-flung customers has outstripped rural carriers' financial resources. This has, in some cases, hindered these carriers from making much-needed improvements and upgrades to their networks to provide basic supported services.

With this Order, we adjust rural high-cost loop support to address a facet of this pressing problem. The increases to rural high-cost loop support will begin relatively modestly (roughly \$126 million total support for Year 1) and then ramp up to a total price tag over the five year term of the plan of over \$1 billion. Together with our other existing universal service programs, our total support for rural carriers during this five year period is projected to be well over \$9 billion - before we address rural access reform.

Although I vigorously support the Commission taking this important action, I acknowledge that there are limitations to this plan. As the Order emphasizes, this is an interim five-year plan, reflecting the fact that we have more work to do in this area. Specifically, I believe it is important that we develop a permanent support mechanism, based on forward-looking costs or another appropriate measure of costs, by which we can ensure that the rural high-cost loop fund grows no larger than is truly necessary to accomplish its purpose. As I have stated repeatedly, we must guard against allowing universal service programs to grow too large, lest we collect so much from carriers that

they are hindered in their ability to compete and bring consumers new and better products and services.

If we could address this concern and adopt a permanent solution today, I would be the first to support it. But these issues are exceedingly complex and will take more time to develop. At the same time, further delay is not an option in my view. The Commission has taken simply too long to address rural carrier issues in its implementation of the Act's universal service requirements.

I would re-emphasize that this is only one piece of the puzzle for rural carriers. The Bureau intends to prepare a formal recommendation regarding rural access reform, including consideration of the "MAG proposal" within the next few months. It will be one of my top priorities to make significant progress on rural access reform as soon as logistically possible.

In closing, I would like to extend my deepest gratitude to my state colleagues and staff, as well as my fellow commissioners and staff, for their invaluable contributions to this reform effort. The Rural Task Force and the Joint Board on Universal Service are especially commended for their insight and vigor in developing this interim support mechanism.