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October 4, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW, Room TWB204
Washington, D.C. 20554

97-160

Re: CC Docket 96-45, DA 01-2107
Comments of Roseville Telephone Company

Dear Ms. Salas:

Enclosed, please find an original and four copies of the Comments of Roseville Telephone Company in response to *Public Notice* DA 01-2107, released September 11, 2001.

If there are any questions regarding this matter, please contact me.

Very truly yours,

Paul J. Feldman

Paul J. Feldman
Counsel for Roseville Telephone Company

PJF:jpg

Enclosure

cc: Mr. Greg Gierczak
Mr. Jack Day
Certificate of Service

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Before the
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Forward Looking Mechanism for High Cost Support for Non-Rural LECs	)	CC Docket No. 97-160

COMMENTS OF ROSEVILLE TELEPHONE COMPANY

Roseville Telephone Company ("Roseville") hereby responds to the Public Notice released by the Common Carrier Bureau on September 11, 2001 (DA 01-2107) seeking comments on updating line counts and other information for calculating high-cost universal service support for non-rural carriers (hereinafter, *Public Notice*). In these Comments, Roseville notes that providing updated line count information on its service area is not productive, since the application of the proxy model support mechanism to small rate-of-return companies (such as Roseville) is inappropriate. Roseville brings to the Bureau's attention the Petition for Reconsideration of the Tenth Report and Order in this proceeding[1] (filed by Roseville on December 30, 1999, and still pending) seeking reconsideration of that portion of the Tenth Report and Order that defined "non-rural telephone company" for the purposes of providing different high-cost

[1] Federal-State Board on Universal Service, Forward-Looking Mechanism for High-Cost Support, Tenth Report and Order, 14 FCC Rcd 20156 (1999), *affirmed on other grounds*, Qwest Corp. v. FCC, Nos. 99-9546, 99-9547, and 00-9505 (10th Cir. August 1, 2001).

support mechanisms as companies serving more than 100,000 access lines. Roseville urges the Bureau to support grant of that Petition.

I. The Regulatory Distinction for Applying the High-Cost Support Mechanism to Individual Companies Should be Revised to Correct the Huge Differences in Size Among New and Existing "Non-Rural" Companies.

Roseville is an incumbent local exchange carrier ("ILEC") serving subscribers in 83 square miles, with central office locations serving the Roseville and Citrus Heights, California area. Roseville has been providing high quality communications services to its subscribers for over 85 years, and currently serves approximately 134,000 access lines.[2] While Roseville's access line count places it a mere 34,000 access lines above the definition of "rural telephone company", it is the smallest of the non-rural LECs ("NRLECs"). To the extent that larger companies can use their size to create greater cost savings, Roseville is in fact closer to rural companies than to the giant NRLECs with which Roseville is being categorized, for the purpose of federal high cost support.

As the carrier of last resort for local subscribers, Roseville takes very seriously its obligation to provide high quality local exchange services at a reasonable cost to the end-user. In previous Commission proceedings on universal service, including August 6, 1999 Reply Comments in response to the Notice of Proposed Rulemaking that lead to the Tenth Report and Order, Roseville expressed its deep concern that the use of proxy cost models to establish federal high-cost support allocations could lead to

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[2] Roseville's Study Area covers 123,000 "subscriber loops", as set forth in the NECA Fourth Quarter 2000 Administrative Filing, Appendix HC1. The difference between the number of "access lines" and the number of "subscriber loops" is that several services (including remote call forwarding, special access and WATS) are not included in the count of "subscriber loops".

substantial errors when applied to the differing circumstances of each individual carrier, and that such errors could significantly effect the rates that subscribers pay for service. Unfortunately, Roseville's concerns were realized, as its federal high-cost support will be reduced to $0. Roseville's current federal high-cost support would be approximately $4.3 million if it was not included in the non-rural mechanism. This complete loss of federal support will create pressure to raise local rates. Nevertheless, Roseville's focus in its Petition was not on the specific flaws in the Commission's Model, but rather on the broader problem of applying the nationwide Model and support mechanisms to carriers for which it is not appropriate: smaller mid-sized carriers.

In the Tenth Report and Order, the Commission decided to use the definition of "rural telephone company" in Section 3(37) of the Communications Act as the basis for distinguishing between companies that are immediately subject to the forward-looking proxy model for federal high-cost purposes, and those that are not. As the Commission itself recognized (*Id.* at para. 458), there was no statutory obligation to use that distinction, and in fact, doing so generates numerous policy problems. Roseville will not restate herein all of the arguments made in its Petition and subsequent related filings. Briefly, Roseville has made the following points in its previous pleadings:

> -The "rural/non-rural" regulatory distinction ignores the tremendous diversity in size, and thus economies of scope and scale, among non-rural companies companies. For example, As reported in USTA's *Phone Facts 2000*, SBC Communications has over 320 times as many access lines as Roseville (42,117,116 vs. 131,247).[3] Clearly, a company that is 320 times smaller than another company will have much smaller economies of scale and scope than

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[3] Based on the figures in USTA's *Phone Facts 2000*, SBC serves 24.7 percent of the Nation's access lines. In contrast, using the same data, Roseville serves only 0.077 percent (seventy seven thousandths of a percent) of the Nation's access lines.

that company. The smaller company may, for example, purchase one switch at a time, while the larger company purchases one hundred. In such a case, the per-switch cost will be much greater for the smaller company. As a result, the Commission's Proxy Model, which is designed to predict costs for companies like SBC, is not an accurate predictor of costs for companies the size of Roseville.

-Similarly, a proxy model, by its very nature, is an inexact estimate of cost. Some wire center's cost may be overestimated and others may be underestimated. For large carriers with hundreds of wire centers, these errors will tend to cancel out, assuming all other aspects of the model and its input are accurate. While SBC has over 3,000 wire centers, a company like Roseville, however, has only two wire centers.[4] Accordingly, when the model is applied to a carrier like Roseville and contains an error regarding a wire center, the impact on the carrier is greatly magnified because that wire center constitutes a much greater proportion of the operations of a smaller company like Roseville.[5]

-The Commission must consider the impact of applying the "non-rural" Proxy Model to LECs that cross the 100,000 access line threshold. While Roseville has just crossed that line in the last few years, a number of other carriers will do so in the next few years. The impact of crossing the threshold on such carriers is two-fold. First, such carriers would be subject to a different way of calculating their costs for federal high-cost support purposes (*i.e.* use of the Proxy Model) that may significantly reduce the amount of federal high-cost support they receive. Second, under Part 36 of the Commission's rules, carriers with less than 200,000 access lines in a study area received 6 ½ more federal support for that study area than a study area with similar characteristics and more than 200,000 lines. As a result smaller companies typically have a much higher reliance on federal high-cost support than large companies, and the loss of federal high cost support in the transition to the Proxy Model will be much more significant than the transition

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4 The "smallest" of the non-rural LECs other than Roseville is Sprint, which has over 1,300 wire centers.

5 The Rural Task Force recognized this effect in its White Paper 4, stating that "[t]he 'Law of Large Numbers' suggests that for the RBOCs those wire centers where the support results are too high will tend to offset those which are too low, resulting in a reasonable result. This is not the case for many Rural Carriers who serve only a few wire centers, or in some cases, a single wire center." *Id.* at page 7. This was a major reason why the RTF recommended not applying the Commission's Proxy Model to rural carriers. Similarly, In the original Universal Service Report & Order, the Commission concluded that a flash-cut shift to high-cost support based on a forward-looking methodology was inappropriate for "rural carriers", since such carriers "generally serve fewer subscribers, ... and do not generally benefit as much from economies of scope and scale." 12 FCC Rcd 8776, 8936 (1997).

for large carriers.[6] This loss of federal support places strong pressure on local rates for basic services.

-Given that there is no statutory requirement to use definition of "rural telephone company" for distinguishing between carriers subject and not subject to the forward looking high-cost support mechanism, Roseville has suggested that the Commission use a distinction that better accounts for the potential for customer rate shock, as well as the impact of economies of scale and scope. If the Commission believes that a distinction should be based on the Communications Act, then it should use the distinction made in Section 251(f)(2) for "rural carriers", which are defined as those LEC holding companies serving fewer than two percent of the nation's subscriber lines. Use of the statutory definition of "rural carrier" has the benefit of reflecting an important distinction made by Congress regarding classification of large and small companies. This definition also reflects the huge difference in size between the "Big 5" LECs on one hand, and the remaining LECs on the other. If the Commission chooses not to use the two percent definition of "rural carrier" in Section 251 of the Act, then the Commission should make the distinction based on service to more or less than 200,000 access lines in a study area. This is a more appropriate dividing point between large and small LECs for determination of high-cost funding, and is consistent with current Part 36 rules which provide greater support to study areas with less than 200,000 lines.

In addition to the points previously made by Roseville in the Petition for Reconsideration pleading cycle, the Commission should also be mindful of its policy of taking a holistic approach of considering access charge reform together with universal service policy. For example, in January of 2001 the Commission issued a Notice of Proposed Rulemaking on access reform which "...sets forth an interstate access reform

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6 For example, Roseville has previously noted that prior to the use of the new federal high-cost support mechanism, federal support constituted 6.68 percent of its loop revenue requirement. By comparison, federal high-cost support typically constitutes between 0.1 and 0.5 percent of the loop revenue requirement of the "Big 5" LECs with which Roseville is now categorized. A company like Roseville's reliance is thus 12 to over 200 times greater than those companies.

and universal service proposal for incumbent LECs subject to rate-of-return regulation".[7] The Commission clearly believes that as a policy matter, access charge reform for rate-of-return companies must be approached in conjunction with high cost support policy for those companies, in a comprehensive and holistic manner. Yet, most companies approaching or just going over the 100,000 line mark are likely to be rate-of-return companies, and thus the holistic approach cannot be achieved if a company is subject to access policies designed for similarly situated smaller rate-of-return companies, while at the same time being subject to high cost support policies designed for large price cap companies.

Similarly, on May 23, 2001, the Commission released an Order which enacted new high cost support rules for small ("rural") carriers.[8] That RTF Order adopted in large part the Recommendations of the Rural Task Force, which demonstrated in detail how it is not appropriate to apply the Commission's proxy model to smaller and rural carriers. As demonstrated in Roseville's Petition for Reconsideration and subsequent filings, the cost structure and its resulting lack of economies of scale and scope for companies of Roseville's size are similar to those of the rural companies, but are in no way related to those of non-rural companies hundreds of times the size of Roseville. The RTF Order

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7 In the Matter of Multi-Association Group Plan, FCC 00-448 (released January 5, 2001) (hereinafter"MAG NPRM") at paragraph 1 (emphasis added).

8 Fourteenth Report and Order, Twenty Second Order on Reconsideration and Further Notice of Proposed Rulemaking in CC Docket 96-45, FCC 01-157 ("RTF Order").

also re-affirmed the integral relationship of reform of high cost support for small companies with access reform for such companies.[9]

In light of the above, Roseville asserts that providing updated line count information on its service area is unproductive, since for the reasons shown above, the application of the proxy model support mechanism to companies as small as Roseville is inappropriate. If the application of the Model to a mid-size company is inappropriate, then making one of the inputs more accurate will not produce a more accurate estimate of that company's costs. However, if the Commission believes that the forward-looking Proxy Model mechanism should be applied to mid-size companies like Roseville, then Roseville suggests that an entirely different set of inputs be created for such companies.

II. Conclusion

The Bureau seeks updates of line count information for "non-rural" carriers. But the distinction between "rural" and "non-rural" LECs set forth in the Tenth Report and Order improperly places smaller mid-sized carriers in the same category as LECs hundreds of times their size, thus basing high-cost support for such companies on models designed for carriers with substantially greater economies of scale and scope. Updating one input to a model that does not fit the target company will not produce a more accurate result. In light of the harm caused as a result, and because the definition

[9]. *See, id.* at para. 205 ("Our consideration of these issues in the MAG proceeding will be informed by the Rural Task Force's recommended principles, which we will incorporate into that docket. . . .")

used by the Commission is not mandated by the Act for use in connection with federal universal service, Roseville urges the reconsideration and revision of that distinction.

Respectfully submitted,

ROSEVILLE TELEPHONE COMPANY

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Its Attorney

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October 4, 2001

CERTIFICATE OF SERVICE

I, Joan P. George, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that a true copy of the foregoing *Comments of Roseville Telephone Company* was sent this 4th day of October, 2001 by hand to the following:

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