Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
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COMMENTS OF TDS TELECOMMUNICATIONS CORPORATION

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TDS Telecommunications Corporation (TDS Telecom), on behalf of its 108 incumbent local exchange carriers (ILECs) in 28 states, which provide the universal services designated by joint state and federal action under section 254, and by its attorneys, submits these comments in response to the Joint Board's August 21, 2001 request.[1] The Joint Board issued its Public Notice in response to the Commission's request for a recommendation on whether to expand the definition of universal services beyond the "core" services currently reflected in §54.101 of the Commission's rules.[2]

Introduction and Summary

The Joint Board has asked for comment on numerous questions, including "whether any advanced or high-speed services should be included within the list of core services," "whether to redefine voice grade access for universal service purposes," whether to provide "support for a network transmission component of Internet access beyond the existing definition of voice grade

[1] Federal-State Joint Board on Universal Service Seeks Comment on Review of the Definition of Universal Service, FCC 01- J1, CC Docket No. 96-45 (rel. August 21, 2001) (Public Notice).

[2] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, 15 FCC Rcd 25257 (2000) (Referral Order).

access" and "whether intrastate or interstate toll services, expanded area service, or prepaid calling plans should be included in the list of supported services." TDS Telecom suggests that the Commission focus on network functions and capability that should be available to all customers, as it has in the past, rather than simply adding new "services" to the current, largely-functional definition. The statute demonstrates Congress's intention for an evolving universal service standard, nationwide deployment of broadband capability and access to advanced telecommunications and information services. Evolution adding network capability can pave the way flexibly for multiple services and technologies. The Commission should expand the definition as explained in these comments, balancing market forces and regulatory intervention by considering the statutory guidelines for evolving the definition. It should then match support to a carrier's costs and the capabilities of the platform it deploys. Access to dial-up, non-toll Internet service is widely available now and should be added to the definition of supported universal services, and the Commission should coordinate its support with RUS programs.

The Commission should aggressively remove the existing obstacles to network evolution from its own rules. It should repeal its remaining caps on universal service support for high cost ILEC loops and recognize upgrades to increase availability of broadband-capable lines as supportable network evolution. Provided that a carrier is providing all services on the original list of core services eligible for support, the Commission's rules should allow evolutionary support for upgrades, tailoring support to the pace and nature of each carrier's upgrades. The Commission should abolish the all-or-nothing rules for commonly-owned carriers and provide them with regulatory options that will stimulate investment in modernizing their networks. Finally, to prevent end users from excessive universal service support costs, the Commission should establish effective §254(e) accountability for CETCs receiving ILEC-cost-based support.

Different technologies will evolve in different ways, but a NECA study shows that rural wireline networks will lag in DSL availability unless broadband-capable loops receive sufficient support. The updated definition should provide support for continued evolution of the public switched network towards the digital loop and cable capability necessary to provide a platform for advanced services.

The 1996 Act Leaves No Doubt that Congress Intends Widespread Availability of Advanced Network Capabilities, with Universal Service Support Available Where the Marketplace Alone Is Insufficient to Do the Whole Job

Congress provided in §254(b)(2) that "[a]ccess to advanced telecommunications and information services should be provided in all regions of the Nation." In §254(b)((3), it amplified this general national policy to embrace consumers outside the dense, low-cost and high volume metropolitan markets where the marketplace is most likely to result in timely deployment of advanced telecommunications. That provision specifies that:

> Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced 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.

As the Public Notice points out, the statute intends universal service to be an evolving level of telecommunications services that the Commission shall establish periodically . . . , taking into account advances in telecommunications and information technologies and services." The Act also provides some guidance for the evolution of the universal service definition. Section 254(c)(1) instructs the Commission and Joint Board to "consider the extent to which … telecommunications services … are essential to education, public health, or public safety; … have, through the operation of market choices by customers,

been subscribed to by a substantial majority of residential customers; … are being deployed in public telecommunications networks by telecommunications carriers; and … are consistent with the public interest, convenience, and necessity." In adopting the "core" services in the current universal service definition, the Commission properly interpreted the provision as requiring that "all four criteria enumerated in section 254(c)(1) must be considered, but not each necessarily met, before a service may be included within the general definition of universal service, should it be in the public interest."[3] The Commission also interpreted the statutory language, particularly the word "consider," as providing "flexibility for the Commission to establish a definition of services to be supported, after it considers the criteria enumerated in section 254(c)(1)(A)-(D)."[4] The considerations, taken together, evidence the intention that support for network evolution should take into account both customer needs for the service and what access is emerging via marketplace forces.

The Commission has also wisely chosen, in implementing the definition, to look at what the network is able to do, rather than what specific services should be available. When it defined the original list of core services, the Commission explained that "[i]n arriving at this definition, we have adopted the Joint Board's analysis and recommendation that, for purposes of section 254(c)(1), the Commission define 'telecommunications services' in a functional sense, rather than on the basis of tariffed services."[5] Focusing on capability rather than particular services is consistent with the Commission's policies of competitive and technological neutrality, since different providers may provide customers access to evolving capabilities in different ways. As

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[3] Federal-State Joint Board On Universal Service, FCC 97-157, CC Docket No. 96-45, 12 FCC Rcd 8776, ¶61 (footnotes omitted) (1997) (May 8 Order).

[4] Ibid.

[5] Ibid.

the Commission explained, its "definition of core universal services promotes competitive neutrality because it is technology neutral, and provides more flexibility for defining universal service than would a services-only approach."[6] The Commission should retain that approach here and match support to a carrier's own costs and capabilities, based on the platform it deploys to provide access to advanced services.[7]

Another provision added by the 1996 Act, §706, directs the Commission to monitor and, if necessary, encourage the deployment of broadband services throughout the nation "by utilizing...price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment." This provision, too, indicates the importance of balancing market forces and regulatory intervention in achieving the ultimate goal of nationwide broadband availability. Indeed, the Commission is currently investigating whether further measures are necessary under §706.[8]

Local Internet Access Is Widely Available, But It Is Time For The Commission To Explore The Best And Most Cost Effective Way To Support Nationwide Access To The Internet Without Long Distance Charges

When the Commission adopted the original core services definition recommended by the Joint Board, it found that most Internet users used dial-up access, so that

> a network transmission component of Internet access beyond voice grade access should not be supported separately from voice grade access to the

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[6] Ibid.

[7] A competing carrier should be able to elect to provide its own costs or use a proxy model.

[8] Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Notice of Inquiry, CC Docket No. 98-146 (rel. February 18, 2000).

> public switched network because the record does not indicate that a substantial majority of residential customers currently subscribe to Internet access by using access links that provide higher quality than voice grade access.[9]

Since that time Internet use and the importance of the Internet to residential and business customers have burgeoned. Beyond that, an increasing part of the nation's residences and businesses now have Internet available through a local voice grade call – that is, without incurring long distance charges. For example, a recent study by Wisconsin ILECs, reported that 99.3% of Wisconsin customers have local access to the Internet. The Iowa Utilities Board's comments in the Intercarrier Compensation proceeding state (p.3) that "100% of Iowa's exchanges have local dial-up internet access."[10] If that is typically true for other areas, the network deployment and subscriber acceptance levels would meet the §254(c) considerations. Given the growing dependence on the Internet for economic, public and personal purposes, it is certainly in the public interest to have equivalent Internet access in those few areas where there is no local Internet provider or means of reaching an out-of-area provider via a local call. The Commission has already found in implementing §254(h) that supporting access to the Internet is warranted for schools and libraries.[11] The Wisconsin and Iowa figures point to broad availability even in two largely rural states. Thus, the record compiled in this proceeding is likely to justify a decision that local dial-up access to the Internet qualifies under all four of the §254(c) considerations and should be added to the definition of universal service.

The Commission should then determine the most cost-effective way to provide toll-free Internet access to customers that are currently without it. The current market still indicates that

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[9] May 8 Order, ¶83.

[10] Comments of the Iowa Utilities Board, CC Docket No. 01-92 (filed August 21, 2001).

[11] 47 C.F.R. §54.503.

"dial-up" access is what should be required, since evolution towards broadband access is still at an early stage. It is important to keep in mind that the support for reasonably comparable services and rates in rural areas is distinct from and in addition to the Act's provisions for "low income" or lifeline services. The cost of all federal universal service support is ultimately borne by the nation's end user customers, so the Commission has a responsibility to design support to be "sufficient," but not beyond what is necessary.

Three TDS Telecom ILECs, located in Winterhaven, California, Fairbluff, North Carolina, and Condon, Oregon, plan to apply this month for funding under a Rural Utilities Service program, the Local Dial-Up Internet Grant Program. That program is designed to provide financing to acquire, construct or install equipment, facilities and systems to make local dial-up Internet access available in certain rural communities where it does not currently exist. The Commission should work with the RUS to ensure cost-effective coordination with this valuable, but limited, program. The Commission should not place the resulting support under its caps. Given that the capped fund is already depriving carriers of needed support, placing further support under the cap will reduce the existing level of support for all carriers and all costs subject to the cap.

Available Market Facts Indicate That ILEC Deployment of Broadband-Capable Lines Cannot Keep Pace Throughout Rural Areas So Long as Rural Loops Remain Too Long to Provide DSL

Although the Commission's first and second inquiries under §706 found that "deployment of advanced telecommunications capability was reasonable and timely on a general, nationwide basis," the Commission did not believe that the marketplace alone would accomplish nationwide access to broadband capability. It "cautioned" that certain groups of consumers, including consumers living in sparsely populated areas, were particularly vulnerable to "not

receiving timely deployment of advanced telecommunications capability by market forces alone."[12] Accordingly, the Commission said it would "continue to take steps to remove any barriers to deployment; to remove any barriers to investment in technologies that can deliver advanced services; and to vigorously promote a competitive marketplace."[13]

NECA's Rural Broadband Cost Study bears out this rural vulnerability.[14] NECA found that rural ILECs are deploying a broadband-capable network that would remove some obstacles to making that capability available to about 65% of rural lines by 2002. Although the evolution of other providers' networks and of other technologies is likely to follow diverse paths towards providing broadband capability, wireline ILECs are currently trying to upgrade their networks to the capability that is a necessary prerequisite to making broadband DSL services available. To the extent that demand and market forces permit, some ILECs are offering DSL services to some customers. However, using a sample of the rural telephone companies in its Common Line pool, NECA estimated that the cost of making the remaining 35% of the rural telephone company lines in the Common Line Pool broadband-capable – about 3,333,290 lines -- would be $10.9 billion.[15] The NECA analysis supported the conclusion that "upgrade cost per line declines, on average as lines per exchange increase and distance from the central dial office decreases," although there was significant variability of costs among the common line pool members studied. The study estimated that about 51% of the $10.9 billion cost of ubiquitous rural broadband

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[12] Inquiry Concerning The Deployment Of Advanced Telecommunications Capability To All Americans In A Reasonable And Timely Fashion, And Possible Steps To Accelerate Such Deployment Pursuant To Section 706 Of The Telecommunications Act Of 1996, Third Notice Of Inquiry, CC Docket No. 98-146, FCC 01-223, para. 1, including n. 4 (rel. Aug. 10, 2001) (Broadband Inquiry).

[13] Ibid.

[14] NECA, Rural Broadband Cost Study, http://www.neca.org/broadban.asp (June 21, 2000).

[15] Ibid.

capability was for lines in isolated territory and more than 41% of the cost of upgrades would be for other lines more than 18 kilofeet from the Central Dial Office Serving Area, but within 18 kilofeet of a digital loop carrier. It is important to recognize that the costs NECA identified do not include the costs of actually deploying broadband service via DSL. DSLAMs and other DSL equipment must be added as demand for broadband at the prices which ILECs are able to offer broadband service actually develops. Consistent with the NECA conclusions, the study by Wisconsin ILECs estimated that the cost of requiring even deployment of 28 kbps capability throughout the state would cost $650 million.

It is clear to TDS Telecom from experience with its many rural study areas that the smaller customer bases in the most rural markets typical of the NECA Common Line pool members, where upgrade costs are highest,[16] will not be able to absorb the whole $10.9 billion in costs. Thus, the rural marketplace cannot be expected, much less required, to accomplish nationwide broadband capability without some level of universal service support. However, even in metropolitan markets, market forces have not provided ubiquitous broadband services, and lines longer than 18 kilofeet from a central office or digital loop carrier remain an obstacle to full deployment. Consequently, it remains too early to <u>require</u> ubiquitous deployment, whether urban or rural. And it is still too early to judge how far marketplace forces will provide service and what part of the markets will need universal service support to experience timely availability of broadband services. It is time, though, to keep rural areas from lagging behind metropolitan areas in <u>evolving</u> towards full capability.

At this point, the Commission should concentrate on removing barriers to broadband capability and fostering network evolution in incremental steps towards access to broadband

[16] These areas are situated where the nation's longest loops have been necessary and where the costs of upgrading are particularly high.

capability and ultimately access to broadband services as nationwide demand develops. Five positive actions would do much in this regard for wireline-served customers: The Commission should (1) remove the caps on support for rural carriers to ensure continuing deployment of network upgrades towards broadband capability at least to the same extent as and at a similar pace to metropolitan markets; (2) change its rules to include upgrades to increase availability of broadband-capable lines as a supportable, evolving universal service function,[17] (3) permit an ETC that already provides all the initial list of core services to receive support while it implements new additions to the definition and upgrades to broadband-capable lines; (4) repeal its all-or-nothing rules for common line pool membership and incentive regulation elections by commonly-owned carriers; and (5) require each CETC that obtains portable support based on costs other than its own to demonstrate annually to the designating state, as a prerequisite for state §254(e) certification, how it has used the support to provide currently-defined universal services and as part of a business plan for evolving towards providing broadband access to its customers.

The Commission Should Remove the Cap on High Cost Support for Rural ILECs to Ensure That Its Universal Service Policies Do Not Inadvertently Create Barriers To The Provision Of Access To Advanced Services

In adopting most of the Rural Task Force's recommendations on an interim basis, having in mind the Rural Task Force's proposed "no barriers to advanced services" policy in the future, the Commission agreed that its "universal service policies should not inadvertently create

[17] The nature of the function or capability to be supported during network evolution and the appropriate amount of support will have to be tailored to the different technological platforms used by carriers eligible for support.

barriers to the provision of access to advanced services."[18] The Commission thought at the time both (a) that the "current universal service system does not create such barriers" and (b) that it should "await the Joint Board's recommendations regarding the definition of supported services prior to considering whether the indexed cap should be resized to reflect any modifications to the list of supported services."

TDS Telecom respectfully suggests that the Commission should reexamine that logic and recognize that both the current universal service caps and the rule requiring full provision of defined services to qualify for any support (discussed below) create barriers right now to evolution of ILEC networks. The caps are also far from competitively and technologically neutral because only incumbent wireline telephone companies that are Eligible Telecommunications Carriers (ETCs) are subject to caps, and CETCs need not even incur any of the specific costs for which an ILEC receives support to qualify for equal per-line support.

Thus, this proceeding on the definition of universal service provides the Commission a good opportunity to apply its "no barriers" policy and take action to remove barriers, as §706 instructs. Caps on rural high cost support and on the support for acquired exchanges stand in the way of investments and support flows that would otherwise maintain rural companies' incentives to invest in broadband-capable infrastructure as carriers in metropolitan markets deploy a broadband-capable platform. The Commission has recognized that universal service support is available for deployment of facilities that may be used for advanced services, even though advanced services are not yet part of the §254(c) definition. Indeed, the Commission agreed

[18] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, CC Docket No. 00-256, Report and Order, FCC 01-157, ¶13 (rel. May 23, 2001) (footnote omitted) (RTF Order).

with the Rural Task Force that "existing high-cost loop support mechanism for rural carriers 'inherently provides incentives for the infrastructure investments necessary for providing access to advanced services.' "[19] For example, the Commission squarely rejected arguments that using support to invest in infrastructure capable of providing access to advanced services violates section 254(e), the duty to use support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."[20] The Commission explained that:

> The public switched telephone network is not a single-use network. Modern network infrastructure can provide access not only to voice services, but also to data, graphics, video, and other services. High-cost loop support is available to rural carriers "to maintain existing facilities and make prudent facility upgrades[.]" Thus, although the high-cost loop support mechanism does not support the provision of advanced services, our policies do not impede the deployment of modern plant capable of providing access to advanced services. Rural carriers may consider both their present and future needs in determining what plant to deploy, knowing that prudent investment will be eligible for support.[21]

Accordingly, the Commission's retention of the high cost loop support cap, although rebased and increased in the RTF proceeding, must be viewed as a continuing obstacle to deployment of broadband-capable infrastructure. Indeed, the Commission stated that "[t]he measures that we adopt in this Order will increase incentives for carriers to modernize their plant by increasing the total amount of high-cost loop support available under the cap."[22] Removing

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[19] RTF Order at ¶200 (footnote omitted).

[20] Id. At ¶ 201 (footnote omitted).

[21] Ibid. The Commission noted (fn. 473) that carriers using support for such upgrades are bound by the requirement to use support only for proper purposes. The Commission should recognize that bringing digital capability closer to the customer, even before demand for broadband service gathers momentum, is an important part of enabling nationwide evolution to reasonably comparable rural and urban networks able to provide advanced telecommunications and services.

[22] In this regard, TDS Telecom supports the request by former members of the Rural Task Force for correction of the half-year of rebasing of support reflected in the RTF proposal the Commission adopted that was inadvertently deleted in revisions to the draft rules to reflect mid-year implementation of the rebasing and recapping plan. Unless that glitch is corrected, the cap will have an even greater adverse impact on ILECs' broadband investment incentives.

the remaining cap will increase those incentives and remove a current obstacle to ubiquitous deployment of broadband-capable loops in high cost, rural and insular areas. The Commission need not even change its current definition to remove this obstacle, consistent with §706, and in furtherance of the advanced network deployment and rural-urban comparability principles in §254.

The Commission Should Add Availability of Broadband-Capable Loops To Its List Of Supported Universal Service Functions

The Commission may choose to encourage investment more directly and to include access to broadband-capable loops appropriate for the platform used by the eligible carrier in the definition of universal services. Adding this functionality to the definition to spur "upgrading of facilities" would be consistent with the requirement that support be used "only for the provision, maintenance and upgrading of facilities and services for which the support is intended" set forth in §254(e) of the Act. Indeed, the Commission has already incorporated this functionality into its support calculations for non-rural carriers: Its proxy cost model assumes that loops would be less than 18 kilofeet.[23]

The §254(c)(1) considerations support adding further digital functionality to the network. The Commission has already recognized the need to provide Internet access to schools and libraries. Higher speed access is particularly important for tele-medecine applications. While specific broadband services have not "through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers," increased digital capability in the network is going forward in most parts of the network and, as noted, is assumed

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[23] Federal-State Joint Board on Universal Service, Fifth Report and Order, CC Docket Nos. 96-45, 97-160, 13 FCC Rcd 21323, ¶70 (1998). An 18 kilofoot loop length standard here is customarily used to describe what is necessary to make a copper loop capable of providing DSL. Other factors, such as the guage of the copper, may also play a role in broadband capability using a wireline network.

in the proxy cost model for non-rural support purposes. Hence, the Commission's policy for supporting non-rural company costs is grounded on recognition that broadband-capable loops and digital serving areas are widely "being deployed in public telecommunications networks by telecommunications carriers." Finally, Congress has twice demonstrated, in §254(b)((2)-(3) and §706, that timely nationwide evolution to broadband capability is not only "consistent with the public interest, convenience, and necessity," but also is established as national policy.

The Commission Should Remove Obstacles To Network Evolution From Its Rules

Section 54.101(b) of the Rules requires an ETC "to offer each of the services set forth in paragraph (a) of this section in order to receive federal universal service support." The services listed in paragraph (a) are those within the current "core" definition of universal service. Section 54.101(c) provides for very few and very narrow delays in providing these "core services" the Commission included in its first list. The Commission should continue to require carriers to provide all of the original core services to qualify for support.

However, once the core services have been included in the definition, prohibiting support to a carrier unless it provides all services that may be <u>added</u> to the definition to upgrade the nationwide network beyond the original list is simply inconsistent with the statutory directive to evolve the definition of universal service as technology and market conditions develop. This inherent conflict arises because – unless the rule is changed -- adding a new functionality or facilities upgrade to the supported services list to reflect the evolution of the network will mean that every ETC that does not already provide the newly-added functionality or upgrade will be out of compliance and ineligible for support for <u>any</u> universal service provision. Of course, in amending the rule to allow support for evolving to broadband capability, the Commission will need to ensure that an ETC's business plan for its network and its ongoing investments reflect

continuing progress in making broadband-capable technology available.. The criteria for enlarging the definition demonstrate Congress's recognition that universal service support becomes appropriate when the marketplace has made a capability or service widely available, but some areas or customers are not keeping pace with others because market forces are not sufficient. Consequently, now that the Commission has arrived at the stage of determining whether network and service evolution warrants expansion of the universal service definition, the Commission should amend the rule to allow carriers to receive support for universal services they have already been providing while they are implementing a new addition to the definition or upgrading to deploy an added functionality. A reasonable amendment would thus recognize that evolution involves some phasing-in of capabilities and services, once the core services are provided..

The Commission Should Repeal Its All-or-Nothing Rules for Pool Membership and Incentive Regulation Elections By Commonly-Owned Carriers

Even more critical for TDS Telecom and similar companies that, in effect, are groups of commonly-owned rural carriers, with both the variations among small companies and the range of operating challenges that the Rural Task Force has recently documented in White Paper #2, supra, are policies and rules that recognize the differences among their operating companies. To achieve maximum efficiency and spur network upgrades, these small companies need flexibility to make individual study area decisions about what regulatory regime will best serve their customers. The Commission's all-or-nothing rules for incentive regulation and common line pool membership and the lack of a suitable form of incentive regulation consistent with the need for many small ILECs to remain in the National Exchange Carrier Association pools currently impose debilitating obstacles to determinations tailored to these individual carriers' needs . The Commission can significantly further the directive of §706 to reduce regulation and develop

"other regulating methods that remove barriers to infrastructure investment" in its Further Notice of Proposed Rulemaking in CC Docket No. 00-256, the "MAG proceeding," by eliminating the all-or-nothing restrictions and adopting a suitable optional incentive regulation plan compatible with rural infrastructure deployment and pooling.

Since Portable Support For A Competitive ETC In A Rural ILEC's Area Is Based On The Incumbent's Cost-Based Per Line Support, The Commission Should Provide Or Require Thorough Review And Audit To Ensure That The Nationwide Customers That Ultimately Pay For Universal Service Support Get Full Value For Portable Support Payments

The Commission, the Joint Board and the Rural Task Force have all stressed that technological and competitive neutrality are necessary if competition is to spread to high cost, rural and insular markets. Once a state has designated a competing carrier in a rural carrier's area, §214(e) of the statute is clear that high cost support will be available.

Now that competitive ETCs are emerging and beginning to draw support, the Commission should evaluate whether its current portability rules and practices are neutral and consistent with the need to prevent nationwide customers from paying more than "sufficient" support. Areas which warrant investigation and review to ensure that ratepayers receive the "value" per-line support is meant to deliver include:

(1) whether the accountability for CETCs' use of support based on another carrier's costs and technology is sufficient to protect end users from the cost of unnecessary support payments;[24]

[24] Some states seek extensive justification from ILECs for how they "spend" the support they receive, but simply accept the word of CETCs that they are using the support for universal service purposes. This places the burden of detailed justification on the wrong group of ETCs. ILECs that satisfy the definition in 47 U.S.C. §153(47?) for rural telephone companies receive support based on their investments and expenditures, based on annual cost studies submitted to NECA, based on legally-required accounts, jurisdictional allocations and exclusion of competitive services. There is a two-year lag between the time the ILEC incurs the costs reimbursable from federal universal service mechanisms and the time that the ILEC receives the support reimbursing those costs. Thus, current local rate levels already reflect the continuing availability of support for past investments and expenses for these incumbents. Consequently, state efforts to require additional rate reductions or justifications of expenditures of

(2) whether portable per-line support should be reduced to the extent that a competing ETC is unable or exempt from providing functionality that the incumbent or other ETCs must provide;

(3) whether per-line support based on a rural ILEC's costs should be portable to lines that are neither captured from another carrier nor new (i.e. served for the first time after ETC designation);

(4) whether the Commission should either reconsider its determination not to require unbundled universal service offerings or should adjust ILEC-cost-based per-line support downward where a CETC bundles non-universal service elements with supported universal services; and

(5) whether the current definition should be revised either to provide support for functions the Commission omitted because some carriers cannot provide them or to adjust ILEC-cost-based per-line support downward where a CETC does not provide, for example, equal access to competing long distance services, or (if adopted in this proceeding) access to broadband capable loops or some stated bandwidth.

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support as it is received by the ILEC thus represent efforts to spend money that has already been spent. Likewise, in two years, the ILEC will only receive support based on expenditures that qualify for support. Except to the extent that the support formulas are increased, there is simply no way the support can be used for anything other than the purpose for which the carrier's cost study shows it was spent. For new support flows, such as the support recently adopted in the MAG proceeding to replace implicit support in interstate access charges, the ILEC's use of the funds is reflected because its access charge revenues are reduced.

In contrast, CETCs receive support per line based on costs the ILEC's cost study shows it incurred and will receive the new access support. However, there is no way to tell how the support is spent, and the CETCs need not reflect it in their state or interstate rates or charges. More accountability for "portable" support that is not cost-based for the recipient would ensure that the end users that ultimately fund federal support are spared needless costs and to ensure

that universal service support is not used in violation of §254(e) or to support competitive services, in violation of §254(k).

These adjustments would provide a far more competitively and technologically neutral solution in the context of support for CETCs based on ILEC's costs and would spare the nation's ratepayers the costs of support attributable to wireline ILEC technological and network characteristics and capabilities that are different from those of various other kinds of carriers designated as ETCs.

Conclusion

It is clear from the 1996 Act that the definition of universal service is meant to evolve and that broadband capability is intended. Therefore, TDS Telecom urges the Joint Board to recommend Commission actions that will encourage network evolution without mandating overly-costly support before the demand for broadband services has developed to the point that justifies changing the definition further. It may well be time to change the definition to include local toll-free access to dial-up Internet service, which is widely available now.

It is also plainly time to change Commission rules that are obstacles to network evolution. The Joint Board should accordingly recommend that the Commission (1) repeal its remaining caps on universal service support for high cost ILEC loops; (2) recognize upgrades to increase availability of broadband-capable lines as supportable network evolution; (3) amend its rule requiring provision of all universal services in the definition to receive any support to allow support for evolution towards broadband capability, while requiring provision of all the original

core services to qualify for support; (4) abolish the all-or-nothing rules for commonly-owned carriers and provide them with regulatory options that will stimulate investment in modernizing their networks; and (5) establish effective §254(e) accountability for CETCs receiving ILEC-cost-based support.

Respectfully submitted,

TDS TELECOMMUNICATIONS CORPORATION

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