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December 11, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445-12th Street, SW
Room TW-A325
Washington, DC 20554

Re: *Ex Parte* Notice
CC Docket No. 96-45
CC Docket No. 98-171
CC Docket No. 90-571
CC Docket No. 92-237
CC Docket No. 99-200
CC Docket No. 95-116

Dear Ms. Salas:

On December 11, 2001, Porter Childers and John Hunter of the United States Telecom Association (USTA), met with Carol Mattey, Katherine Schroder, Narda Jones, and Bill Scher of the Common Carrier Bureau.

The purpose of the meeting was to discuss the Commission's Notice of Proposed Rulemaking in the above-captioned proceedings regarding carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. Particularly, we discussed USTA's position on reform and streamlining of universal service contribution and recovery, as set forth in the attachment, which was used during the meeting.

An original and one copy of this *ex parte* notice are being filed in each of the referenced dockets with the Office of the Secretary. Please include it in the public record of the above-referenced proceedings.

Respectfully submitted,

John W. Hunter
Senior Counsel

Attachment
cc: (w/o attachment)
Carol Mattey
Katherine Schroder
Narda Jones
Bill Scher

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STREAMLINE AND REFORM UNIVERSAL SERVICE CONTRIBUTION AND RECOVERY

Ex Parte

December 11, 2001

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The Issue of Recovery of Universal Service Contribution was raised by the Fifth Circuit Court of Appeals in *Texas Office of Public Utility Counsel v. FCC.*

- ✓ **Reversed that portion of the May 8, 1997 Commission Order that included intrastate revenues in the calculation of universal service contributions.**

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FCC Rules and Regulations

- Part 36 of the FCC rules, Jurisdictional Separations, is the process by which incumbent local exchange carriers apportion regulated costs between the intrastate and interstate jurisdictions.
- The local loop consists of both intrastate and interstate components.
- In Amendment of Part 67 of the FCC Rules and Establishment of a Joint Board in CC Docket No. 80-286, Decision and Order, effective April 2, 1982, the FCC froze the gross allocator at 25 percent interstate.

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FCC Rules and Regulations (*continued*)

- The gross allocator allocates non-traffic sensitive subscriber plant costs between the interstate (25%) and intrastate (75%) jurisdictions.

- Non-traffic sensitive subscriber plant equipment includes the facilities that connect homes to the local switching office and the termination of that access line in the local switching office and the subscriber's premises.

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Telecommunications Carrier Contribution

- ✓ Section 254(d) - Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.

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Flat Per Line or Per Unit "Collect and Remit" Approach

- ✓ Violates the concept of competitive neutrality
- ✓ Is unworkable due to line equivalency among interstate carriers
- ✓ Would require multiple methods for assessment by type of carrier
- ✓ Would assess a contribution on intrastate services

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Flat Per Line or Per Unit "Collect and Remit" Approach (continued)

- ✓ FCC previously rejected per-line assessment as too difficult to implement
- ✓ Would create confusion for consumers
- ✓ Would be difficult and costly for local exchange carriers to implement

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Summary

- ✓ Using a flat per line or per unit assessment would not adequately measure the amount of <u>interstate</u> telecommunications services on which to assess contributions.
- ✓ Adoption of an entirely new assessment mechanism based on a per-line or per account approach would violate Section 254(d) of the Act by effectively extending the assessment to intrastate revenues.
- ✓ Revenue based assessment remains the most appropriate mechanism for USF contributions

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Summary (continued)

- ✓ Retain current Commission policy on *de minimus*
- ✓ Carriers should be allowed to recover all administrative costs under any mechanism

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Conclusion

✓ **Flat per line, per unit, or per account contribution assessment mechanisms inequitably penalize customers served by Local Exchange Carriers and are especially regressive toward low volume toll users.**