

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Review of the Definition of	)	
Universal Service	)	

**REPLY COMMENTS OF THE  
COMPETITIVE UNIVERSAL SERVICE COALITION**

**COMPETITIVE UNIVERSAL  
SERVICE COALITION**

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January 4, 2001

## **EXECUTIVE SUMMARY**

The main goal of the Joint Board and the Commission in revisiting the definition of “universal service” should be to remedy shortcomings in the current system that undermine economic viability of competition and new entry. As such, policymakers should reject certain rural incumbent local exchange carrier (“ILEC”) arguments for imposing additional criteria as part of the definition of “universal service” that effectively would preclude many prospective new entrants from competing to provide universal service. The rural ILECs candidly make it clear that they are seeking nothing less than a reversal of core universal service principles that the Joint Board and the Commission adopted pursuant to the 1996 Act, such as what they deem “unnecessary and unhelpful concern with technological and competitive neutrality,” and designation of competitive eligible telecommunications carriers (“ETCs”), especially wireless carriers. The Joint Board and Commission must reject these anti-competitive arguments.

In addition, the Joint Board and the Commission should turn aside the rural ILECs’ insistence on adding to the definition of universal service competitively and technologically non-neutral ETC criteria such as “equal access,” unlimited local usage, and other technical and service quality criteria that pertain only to ILECs. Such requirements would disqualify whole classes of potential competitive entrants, which appears to be the main motivation for the rural ILECs’ request that these requirements be included among the ETC criteria. In addition, adding equal access and/or unlimited local usage to the universal service definition

has no basis in law or fact. Equal access would effectively exclude commercial mobile radio service (“CMRS”) providers from universal service, to the detriment of consumers who might desire the new rate structures and service offerings wireless ETCs can offer. Likewise, adding an unlimited local usage requirement would unnecessarily freeze in place existing ILEC rate structures, and would be biased against CMRS providers and other carriers with usage sensitive cost structures. In addition, the heavy preponderance of comments bear out CUSC's recommendation not to add high-speed or advanced services to the definition of universal service.

Finally, the Joint Board and FCC should refrain from addressing issues that fall outside the scope of the *Public Notice*, such as funding competitive ETCs based on ILEC costs, the wisdom of placing caps on certain types of support, making support portable, and universal services issues unique to Alaska.

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The Competitive Universal Service Coalition (“CUSC”), 1/ by counsel, hereby replies to the comments filed on the Federal-State Joint Board on Universal Service’s (“Joint Board”) public notice on the definition of “universal service.” 2/

**I. INTRODUCTION**

The main task facing the Joint Board and the Commission in revisiting the definition of universal service is to remedy the “shortcomings in the current system [that] undermin[e] economic viability of competition and new entry.” 3/ For this reason, CUSC argued in our initial comments, “Now is not the

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1/ The Competitive Universal Service Coalition includes a number of diverse wireless and wireline competitive carriers (and their trade associations) that provide universal service or are considering doing so.

2/ Federal-State Joint Board on Universal Service Seeks Comment on Review of the Definition of Universal Service, CC Docket No. 96-45, Public Notice, FCC 01-J-1 (rel. August 21, 2001), 66 Fed. Reg. 46461 (September 5, 2001) (“Public Notice”).

3/ Chairman Michael K. Powell, *Digital Broadband Migration – Part II* at 5 (October 23, 2001) (available at <http://www.fcc.gov/Speeches/Powell/2001/spmkgp109.pdf>) (“*Powell Regulatory Agenda*”).

time to expand the list of services and functionalities included in the universal service definition, which would effectively exclude some carriers and thereby reduce competition for the services included in the existing definition. Rather, the Joint Board and the FCC should establish a more streamlined definition that focuses on basic connectivity to public telecommunications networks.” 4/

The Joint Board and Commission should thus resist the efforts of some rural incumbent local exchange carriers (“ILECs”) to seek the reversal of bedrock universal service principles adopted under the market-opening provisions of the 1996 Act. For example, the Montana Universal Service Task Force (“MUST”), a group of rural Montana ILECs, voices its “concern” over the designation of competitive eligible telecommunications carriers (“ETCs”), and its “sense of alarm” over the FCC’s direction on universal service reform. 5/ It seems, however, that MUST’s sense of alarm arises from such well-settled policies as what it calls “the unnecessary and unhelpful concern with technological and competitive neutrality,” 6/ the right of wireless providers to qualify as ETCs, 7/ and the benefits of bringing competition

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4/ CUSC at 3-4. *See also* Competitive Universal Service Coalition, *White Paper: The Road to Competitive Universal Service Reform* (July 2001) (presented to National Association of Regulatory Utility Commissioners’ July 2001 conference, available at <http://www.naruc.org/committees/telecom/cusc.pdf>).

5/ Montana Universal Service Task Force (“MUST”) at 3.

6/ *Id.* at 20.

7/ *Id.* at 14.

to rural areas. 8/ MUST, and a number of other rural incumbents, also seek to turn back the clock by arguing for the imposition of competitively and technologically non-neutral ETC criteria such as long distance “equal access,” unlimited local usage, and other technical and service quality criteria pertaining to ILECs – for seemingly no other reason than that the additions would disqualify whole classes of potential competitive entrants. 9/ We show below that there are neither legal nor policy bases to support such additions to the definition of universal service.

More generally, while it is regrettable that the rural ILECs refuse to accept the Commission’s commitment to competitive and technological neutrality, their critique of this principle is in reality a criticism of the competitive framework of the 1996 Act itself. 10/ Rural ILECs must recognize and accept, as has virtually everyone else, that “universal service policy in the post-1996 [Act] era is not the same animal as it was under the Communications Act of 1934.” 11/

Competitive ETCs have only recently begun to engage in meaningful head-to-head local competition. Expanding the eligibility requirements when

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8/ *Id.* at 16.

9/ *Id.* at 9, 19, 20; *see also* Organization for the Promotion and Advancement of Small Telephone Companies (“OPASTCO”) at 4-5; National Telephone Cooperative Association (“NTCA”) at 2-6; Nebraska Rural Independent Companies (“Nebraska Rural Telcos”) at 2-3, 6-7.

10/ *See, e.g.,* MUST at 15 (“[W]hen a regulator is considering the definition of universal service . . . he or she should take the ‘competition hat’ off and put the ‘universal service hat’ on. \* \* \* \* If only one carrier can meet the definition, that’s fine[.]”).

competitors are just beginning to get a toehold would be unfair and anti-competitive – and therefore wholly at odds with the 1996 Act. <sup>12/</sup> CUSC therefore submits that the time is not ripe for abandoning the goal of competitive neutrality, nor for raising the bar to competitive entry by imposing additional restrictions in the definition of universal service. Rather, the Joint Board and FCC should make the pro-competitive changes proposed by CUSC, and otherwise focus on fixing the structure of the universal service funding program to better reflect the advent of competition and to respond to recent judicial remands.

The heavy preponderance of the comments bears out CUSC's recommendation that the definition of universal service should not be expanded at this time. There is no basis for adding equal access, which effectively would exclude commercial mobile radio service (“CMRS”) providers from universal service. Likewise, adding an unlimited local usage requirement would unnecessarily freeze in place existing ILEC rate structures, and would be biased against CMRS providers and other carriers with usage sensitive cost structures. There is also no legal or factual basis at present to add high-speed or advanced services to the definition of

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<sup>11/</sup> Ad Hoc Telecommunications Users Committee (“Ad Hoc Committee”) at 3.

<sup>12/</sup> Indeed, the Commission has already noted that rural ILEC resistance to competitive ETCs can rest – as it does here – on a “false choice between competition and universal service.” *See Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, 16 FCC Rcd 48, 57 n.61 (2000) (“*Wyoming ETC Order*”) (quoting *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8803, ¶ 50 (1997) (“*Universal Service First Report and Order*”).

universal service. Finally, the Joint Board and FCC should refrain from addressing issues that fall outside the scope of the *Public Notice*, such as revisiting the established policy of making all support portable, the wisdom of placing caps on certain types of support, the imposition of carrier-of-last-resort obligations on competitive ETCs, and universal services issues unique to Alaska.

## **II. THE COMMENTS DO NOT SUPPORT EXPANDING THE DEFINITION OF UNIVERSAL SERVICE TO INCLUDE MORE SERVICES AND FUNCTIONALITIES**

### **A. Equal Access Should Not Be Added to the Definition of Universal Service**

The Joint Board should recommend that the Commission reject the call to add equal access to the definition of universal service. <sup>13/</sup> CUSC believes that this request is in large part driven by the rural ILECs' desire to prevent CMRS carriers from qualifying as universal service providers. Even the country's largest long distance providers, who arguably might benefit most from having equal access added to the definition of universal service, do not in their comments advocate such action. <sup>14/</sup> In any event, even taken at face value, the notion of adding equal access

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<sup>13/</sup> See, e.g., MUST at 13-14; NTCA at 2-6; OPASTCO at 3-5; Nebraska Rural Telcos at 2-5.

<sup>14/</sup> See generally WorldCom, Inc. ("WorldCom"); Sprint Corporation ("Sprint"); AT&T Corp.; Qwest Communications International Inc. This would tend to undermine the validity of the rural ILECs' pretended concern that "given that the nation's largest IXCs are among the greatest contributors to the universal service fund, it seems fundamentally unfair that the customers of wireless CETCs do not have the ability to freely choose from among those IXCs[.]" MUST at 8.

requirements to the definition of universal service makes no sense from either a legal or policy perspective.

Adding equal access as an ETC criterion does not serve the goal of the definition of universal service – promoting voice connectivity to public switched networks in high-cost and rural areas. 15/ The Commission has already considered, and properly rejected, including equal access in the definition of universal service, because its inclusion would “require [CMRS carriers] to provide equal access in order to receive universal service support . . . an outcome . . . contrary to the mandate of section 332(c)(8).” 16/ In reaching this conclusion, the Commission rejected claims, renewed here by the rural ILECs, 17/ regarding the relationship between competitive neutrality and an equal access requirement:

[C]ompetitive neutrality does not require that, in areas where incumbent LECs are required to offer equal access to interexchange service, other carriers receiving universal service support in that area should also be obligated to provide equal access. As discussed . . . below, statutory and policy considerations preclude us from imposing “symmetrical” service obligations on all eligible carriers, including the obligation to provide equal access to interexchange service, as a condition of eligibility under Section 214(e). 18/

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15/ *Accord*, Ad Hoc Committee at 4 (“the specific purpose of providing universal service has been to assure universal connectivity to the public switched network.”).

16/ *Universal Service First Report and Order*, 12 FCC Rcd at 8819, ¶ 78.

17/ See MUST at 13-14, 20; NTCA at 2-6; OPASTCO at 3-9; Nebraska Rural Telcos at 2-5.

18/ *Universal Service First Report and Order*, 12 FCC Rcd at 8819-20, ¶ 79.

The rural ILECs point to no changes of fact or law that would support repudiation of these Commission findings or its ultimate conclusion on equal access. 19/

The Joint Board and FCC should reject the arguments offered by the rural ILECs to support adding equal access to the definition of universal service. First, the notion that equal access meets the requirements of Section 254(c)(1)(A)-(D) is without merit. 20/ Equal access is not a “service” per se, nor have consumers “opted” to purchase it through “free market” decisions. Rather, it is a legal mandate imposed on ILECs, by court decisions and FCC rules, due to the ILECs’ historic monopoly control of the local exchange and their anti-competitive attempts to extend it into long distance. 21/ There is thus no basis for the rural ILECs’ indignation over allowing CMRS providers to be ETCs on grounds that they do not provide equal access. 22/

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19/ The Nebraska Rural Telcos’ reliance on Nebraska’s adoption of equal access as an ETC condition for receiving state support was premature, as the Nebraska Public Service Commission has since reversed itself on this requirement. See *Application of GCC License Corporation, Seeking Designation as an Eligible Telecommunications Carrier that May Receive Universal Service Support*, Application No. C-1889 (Neb. PSC December 18, 2001).

20/ NTCA at 3; *accord* OPASTCO at 4.

21/ *U.S. v. AT&T*, 552 F.Supp. 131, 195-197 (D.D.C. 1982); *U.S. v. GTE*, 603 F.Supp 730, 743-46 (D.D.C. 1984); *MTS and WATS Market Structure*, CC Docket No. 78-72, Phase III, Report and Order, 100 FCC 2d 860 (1985); *see also* 47 U.S.C. § 251(g); *cf.*, NCTA at 3 (noting there are “a few areas where interexchange carriers have not requested balloting”).

22/ *E.g.*, MUST at 13-14; Nebraska Rural Telcos at 3-5.

Moreover, it is preposterous – and misleading – to suggest that “given . . . the overwhelming majority of telephone subscribers [who] have chosen to connect to the public switched network through a LEC, . . . customers are subscribing to equal access service.” <sup>23/</sup> Until recently, consumers had no choice but to subscribe to ILEC service. The description by monopolists of their subscribership levels as indicative of consumer choice deserves as much credence as a dictatorship’s claim that its subjects’ fealty reflects a groundswell of popular support.

In addition, including equal access in the definition of universal service cuts against the pro-competitive intent of the 1996 Act. While requiring equal access would exclude CMRS providers from qualifying as ETCs, <sup>24/</sup> *not* requiring equal access is competitively neutral. It entrusts to *consumers* the decision on whether to take local service from an ETC that offers equal access or from an ETC that offers packaged local/ long-distance service. The goal of equal access, when implemented almost two decades ago, was to promote long distance competition in a local monopoly environment. It makes no sense to try to serve that goal by depriving consumers of local service options, which would be the result of imposing equal access as an ETC requirement. Thus, the rural ILECs have it exactly wrong in claiming that “the Commission found that supporting equal access would undercut

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<sup>23/</sup> OPASTCO at 4 (arguing equal access satisfies 47 U.S.C. § 254(c)(1)(B)).

<sup>24/</sup> *Universal Service First Report and Order*, 12 FCC Rcd at 8819-20, ¶¶ 78-79.

local competition and reduce consumer choice, but failed to explain how it would do so.” 25/ The explanation is clear.

Finally, given the small size of many rural ILECs’ local calling areas, which means a relatively large portion of calls on their networks incur toll charges, it may well be the case that in the current monopoly ILEC environment, many “[r]ural subscribers consider the ability to choose a long-distance provider to be fundamental.” 26/ CUSC submits, however, that leaving equal access out of the ETC criteria can benefit rural consumers in a number of ways. First, CMRS carriers and other competitive ETCs bring new rate structures and business plans to market, giving consumers a choice between ILECs offering equal access but a limited local calling area, and competitive ETCs offering expanded local calling areas and attractive long distance packages. Moreover, such entry can spur ILECs to expand their local calling areas in order to compete with the new entrants. 27/

It is thus clear that the Commission correctly chose in the *Universal Service First Report and Order* not to include equal access in the definition of

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25/ NTCA at 5 (citing *id.* at 8819-20, ¶ 79) (internal quotation omitted). In view of the foregoing, CUSC is at a loss to understand OPASTCO’s confusion over how to “rationalize [that] multiple ETCs within a local service area is consistent with the public interest . . . yet equal access to interexchange service is not.” OPASTCO at 4.

26/ MUST at 20.

27/ *Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota*, CC Docket No. 96-45, FCC 01-283, ¶¶ 13-14 (rel. October 5, 2001); *Wyoming ETC Order*, 16 FCC Rcd at 57, ¶ 21.

universal service in the interest of spurring competition in high-cost and rural areas. The Joint Board and Commission should refuse to entertain the rural ILECs' request for the addition of equal access to the definition of universal service. 28/

**B. Unlimited Local Usage Should Not Be Added to the Definition of Universal Service**

The comments in this docket support CUSC's position that the Joint Board and Commission should resolve the outstanding issue of how much local usage ETCs must provide by eliminating any pre-set minimum, and instead allow market forces to guide the amount of local usage ETCs offer. 29/ As we noted, the *Public Notice* marks the third round of comment solicited on this issue, and the FCC is no closer to setting a quantifiable requirement. 30/ Indeed, given the differences between wireline and wireless network costs with regard to usage-sensitivity, there is no principled way to fix a specific, government-imposed amount

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28/ The Joint Board and FCC should also reject any suggestion that the mere designation of a CMRS provider as an ETC turns it into a local exchange carrier ("LEC"). OPASTCO at 6-7. Section 332(c)(3)(A) of the Act requires a particularized showing by a state before it is allowed to regulate CMRS provider rates and entry, which would be the net effect of OPASTCO's call for treating all CMRS ETCs as LECs. In addition, the likelihood of the scenario posed by OPASTCO, that a competitive entrant will become "the only carrier serving [a] service area and should therefore be capable of providing at least the same services required of all LECs," is remote. *Id.* at 8. That chimera should not drive public policy.

29/ CUSC at 14-18.

30/ *Id.* at 14.

greater than zero that comports with competitive and technological neutrality. 31/ This would be true regardless of whether the FCC picks a number it thinks is an acceptable minimum, or considers the rural ILEC proposal to set the number at “infinity,” *i.e.*, require unlimited local usage.

As with equal access and other requested additions to the definition of universal service discussed above, it is significant that the only comments filed in support of unlimited local usage come from rural ILECs in Montana and Nebraska, states where CMRS providers have received or sought designation as competitive ETCs. 32/ The Joint Board and the Commission should not be swayed by these carriers’ attempt to abuse the universal service definition in an attempt to force prospective competitors to mirror their cost structures. 33/ Indeed, while MUST argues that “the nationwide standard of unlimited local usage at the exchange level is clear,” 34/ it also concedes that some “subscribers nationwide *choose* to have their

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31/ See *id.* at 15-16 (citing *Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252, 21280, ¶ 49 (1998)).

32/ See, *e.g.*, MUST at 18-19; Nebraska Rural Telcos at 5-7.

33/ See Nebraska Rural Telcos at 7 (“Because the majority of ILEC’s costs are dedicated and . . . they can offer unlimited usage at a flat rate, other providers should be required to provide the same amount of usage at a flat rate as well.”).

34/ MUST at 18.

local usage measured on a per-minute basis.” <sup>35/</sup> These parties’ comments make it transparently clear that there is no good reason to impose local usage requirements other than to keep existing and potential wireless ETCs out of the universal service marketplace, which is contrary to the Act. Consumers in a competitive universal service marketplace ought to have the right to choose how much local usage they wish to buy, and who they want to buy it from.

Finally, unlimited local usage is not a telecommunications “service” within the meaning of Section 254(c)(1), but rather the quantification of a service (local exchange service/access) that is already part of the definition of universal service. Further, the “substantial majority of residential customers” subscribing to a local service that includes unlimited local usage, <sup>36/</sup> do so almost solely because regulatory fiat required it of monopolistic ILECs. This ILEC-centric approach does not necessarily reflect consumer choice, however, and it certainly should not be further entrenched in this new era of fostering open competition in rural markets.

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<sup>35/</sup> *Id.* at 6 (emphasis added). This is consistent with the observation in CUSC’s initial comments that Verizon, one of the nation’s largest ILECs, offers calling plans based on flat-rate, per-call, and measured-service options, with the latter featuring “limited” and “economy” options based on usage. CUSC at 17 n.28. CUSC would be surprised to learn – and MUST does not suggest – that such plans are not offered by virtually all ILECs. In addition, the rural ILECs’ call for unlimited local usage would preclude even initial consideration of the potentially promising proposal that federal universal service funding should be available for prepaid metered wireless and/or metered local usage to allow those who cannot obtain residential wireline service to access the local network. See United States Conference of Catholic Bishops, *et al.*, at 20-39.

<sup>36/</sup> See 47 U.S.C. § 254(c)(1)(B).

All told, the potential for profoundly undermining competitive neutrality with any other choice militates against prescribing an amount of local usage. 37/

**C. The Definition of Universal Service Should Not Be Altered to Increase Bandwidth Requirements, or Expanded to Include Advanced, Broadband, or Internet Services**

The comments support CUSC's position that it would be unwise to "mandate that specific broadband services or higher bandwidth functionality be included in universal service offerings," to "add the network transmission component of high-speed Internet access to the definition," or to "chang[e] the existing definition [of voice-grade access] to require greater bandwidth or higher speeds." 38/ Various commenters from different segments of the industry – including some that receive support and/or provide advanced services – agree. 39/ In particular, World-Com offered an especially in-depth, data-rich analysis – with which CUSC agrees –

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37/ CUSC agrees with the commenters who advocate not adding soft dial tone or warm line capabilities to the definition of universal service. *E.g.*, Sprint at 9; BellSouth at 7; Ad Hoc Committee at 14-16; United States Telecom Association ("USTA") at 4-5. CUSC also concurs that the addition of soft dial tone or warm line capabilities would raise a host of ancillary issues, including those related to number portability and 911 emergency services costs, that fall outside the scope of present inquiry. *See* SBC Communications, Inc. ("SBC") at 13.

38/ CUSC at 9, 18.

39/ *E.g.*, SBC at 6-11; United States Cellular Corporation at 2-7; Sprint at 2-8; GVNW Consulting, Inc., at 2 & 3 (noting that "universal service policy should promote infrastructure that will support advanced services *capability*" but "the four criteria for including a service within the definition . . . dictate little, if any, change to the present definition") (emphasis in original); Ad Hoc Committee at 4-13; *cf.*, Iowa Utilities Board at 3-6 ("[t]he comments the Board received do not support expanding the definition of universal service to include advanced or high speed internet service at this time"); *accord* Illinois Commerce Commission, *passim*.

showing that there is no legal or factual support for adding broadband or advanced services to the definition of universal service at this time.

CUSC also agrees with commenters like Verizon, who argue that pursuing the expansion of advanced services “through subsidies that would burden all telephone users is the wrong approach.” 40/ As Verizon notes, such an approach:

assumes a monopoly environment where the government must interfere to remedy a failure of the market to meet consumer needs. There is no monopoly and no market failure in the advanced services market. 41/

Even proponents of supporting advanced services with universal service funding acknowledge that there is an abundance of availability of advanced or broadband services, but that consumer demand for such services has somewhat lagged expectations. 42/ This further undermines any suggestion that advanced services “have, through the operation of market choices by customers, been subscribed to by a substantial majority” of them. 43/ Furthermore, as the Ad Hoc Committee points out, the 1996 Act requires not “the provision of advanced telecommunications and

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40/ Verizon at 4.

41/ *Id.*

42/ *E.g.*, NTCA at 6-8; TDS Telecommunications Corporation (“TDS Telecom”) at 11 (“it remains too early to require ubiquitous deployment, whether urban or rural [and] it is still too early to judge how far marketplace forces will provide service and what parts of the markets will need universal service support”).

information services to each and every household,” but rather only “access” to such services, 44/ which the comments reflect is already available. 45/ All told, the Joint Board should decline to recommend that the FCC add advanced or broadband services to the definition of universal service.

### **III. THE JOINT BOARD AND FCC SHOULD DECLINE TO ADDRESS MATTERS OUTSIDE THE SCOPE OF THE *PUBLIC NOTICE***

Though potential modifications to the definition of universal service may impact other aspects of the federal program, including notably the amount of funding it requires, the Joint Board should decline to address proposals, initiatives, comments and requests for reconsideration beyond the scope of the *Public Notice*. A periodic review of the definition of universal service as required by Section 254(c)(1) is not an open invitation to seek action on any and all rule and policy issues that fall under the rubric of universal service. Thus, the Joint Board and Commission

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43/ 47 U.S.C. § 254(c)(1)(B); *compare also id.*, § 254(c)(1)(A) (requiring consideration of extent to which potential universal service additions are “essential to education, public health, or public safety”), *with* SBC at 10 (“If residential consumers perceived that residential access to advanced services was essential to their own health and safety, the subscription levels to such services would be higher than 12%.”).

44/ Ad Hoc Committee at 6.

45/ See, e.g., NTCA at 6-7 (noting that “[a]ccess to advanced services is becoming widely available,” in that (i) “estimates [are] that by the end of this year three out of four households will have high-speed Internet access available to them,” (ii) “Chairman Powell [recently] estimated broadband *availability* to be almost 85%,” and (iii) [p]reliminary results show that 74% of [NTCA members] currently offer their customers bandwidth in excess of 200 kbps, the FCC’s definition of broadband”) (emphases added); *accord*, WorldCom at 11 (reporting substantial recent increases in high-speed deployment, but only marginal increases in subscription).

should decline to entertain arguments to re-open issues such as whether competitive and technological neutrality are appropriate policy goals, 46/ whether wireless carriers may qualify as ETCs, 47/ whether federal support should be fully portable, 48/ the merits of current funding mechanisms, 49/ and whether such mechanisms should or should not be capped. 50/ These are issues that, to the extent they should be addressed at all, should be raised in response to notices directly seeking comment on such issues. 51/

Likewise, a proceeding focused on the narrow issue of reviewing the definition of universal service should not serve as a platform for raising new issues for consideration, nor for seeking special treatment for the resolution of issues that pertain to only limited or narrow circumstances. For example, though certain

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46/ MUST at 20.

47/ *Id.* at 14.

48/ *Id.* at 18.

49/ TDS Telecom at 18.

50/ *Id.* at 12-15.

51/ Compare, e.g., TDS Telecom at 17-18 (“The Commission should repeal its all-or-nothing rules for pool membership and incentive regulation elections by commonly-owned carriers.”), with *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Second Report and Order/Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, FCC 01-304, ¶¶ 213-240, 260-271 (rel. November 8, 2001) (seeking comment on, respectively, alternative regulatory plans for rate-of-return carriers, and revisions to the all-or-nothing rule).

commenters advance worthy causes, such as additional services for disabled and low-income consumers, that might warrant federal funding, it is far from clear that universal service support should be the source of that funding. A narrow inquiry reviewing the definition of universal service certainly is not the proper forum for such extraneous issues. <sup>52/</sup> Similarly, there is no doubt that Alaska faces “unique” universal service issues, especially as they pertain to dial-up and/or higher speed Internet access. <sup>53/</sup> But those issues should be resolved separately (and preferably in a way that does not add significant new burdens on the federal USF or telecommunications providers that contribute to it), in response to a properly focused petition or request for comment by the Joint Board or Commission.

#### **IV. CONCLUSION**

For the foregoing reasons, the Joint Board should recommend that the Commission terminate without action the pending proposal to mandate minimum local usage, and that the Commission decline to adopt equal access or any other additional criteria into the definition of universal service. The Joint Board should also recommend that the definition of universal service not be expanded to include broadband service, and that the pending inquiry into increasing the required speed of voice-grade access should be terminated without action. In addition, neither the

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<sup>52/</sup> CUSC will comment substantively on TDI’s and/or Community Voice Mail’s proposals if and when the Joint Board or the Commission puts them out for public comment in a proceeding that, unlike the current inquiry, is a proper forum.

<sup>53/</sup> See, e.g., Regulatory Commission of Alaska, *passim*; State of Alaska, *passim*.

Joint Board nor the Commission should address universal service issues beyond the scope of the public notice. Finally, CUSC urges the Joint Board and the FCC to take steps to re-emphasize the importance of competitive and technological neutrality, and to remedy what Chairman Powell has recognized as “shortcomings in the current system [that] undermin[e] economic viability of competition and new entry.”

Respectfully submitted,

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