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COMMON CARRIER BUREAU SEEKS COMMENT ON REMAND OF $650 MILLION SUPPORT AMOUNT UNDER INTERSTATE ACCESS SUPPORT MECHANISM FOR PRICE CAP CARRIERS

PLEADING CYCLE ESTABLISHED

CC Docket Nos. 96-262, 94-1, 99-249, and 96-45

Comment Date: 30 days from publication in the Federal Register
Reply Comment Date: 45 days from publication in the Federal Register

On May 31, 2000, the Federal Communications Commission adopted the *CALLS Order*, which reformed the interstate access rate structure for price cap carriers by removing implicit universal service support and replacing it with explicit support.[1] To accomplish this, the Commission created a new universal service support mechanism called the interstate access support mechanism.[2] The Commission directed that $650 million annually be made available under the interstate access support mechanism. The Commission concluded that this amount would provide sufficient, but not excessive, support.[3] In adopting this amount, the Commission noted that $650 million fell within a range of proposed amounts submitted in the proceeding, and reflected agreement among disparate interests, including interexchange carriers and price cap carriers.[4]

On September 10, 2001, the United States Court of Appeals for the Fifth Circuit remanded the *CALLS Order* to the Commission for further analysis and explanation regarding

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[1] *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*, CC Docket Nos. 96-262 and 94-1, Sixth Report and Order, *Low-Volume Long-Distance Users*, CC Docket No. 99-249, Report and Order, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Eleventh Report and Order, 15 FCC Rcd 12962 (*CALLS Order*), *aff'd in part, rev'd in part, and remanded in part, Texas Office of Public Util. Counsel et al. v. FCC*, 265 F.3d 313 (5th Cir. 2001) (*TOPUC*).

[2] *CALLS Order* at 13039-62, paras. 185-232.

[3] *Id.* at 13044-49 paras. 198-205.

[4] *Id.* at 13046-47 para. 202.

the establishment of the $650 million amount.[5] The court concluded that the Commission provided inadequate justification for the support amount.[6] Specifically, the court concluded that the Commission "failed to exercise sufficiently independent judgment in establishing the $650 million amount," by granting too much deference to the fact that many parties agreed that $650 million was an adequate support amount.[7] The court recognized that identifying a specific amount of explicit support to replace implicit support is "an imprecise exercise," but held that the Commission must better explain how it arrived at the $650 million amount.[8] In particular, the court noted that the Commission should better address the relevance of studies filed in the proceeding to the establishment of the support amount, including the AT&T study using the synthesis model, the ALTS and Time Warner studies, and other studies.[9] The court therefore directed that the Commission provide further analysis and explanation justifying $650 million as an appropriate amount of support available under the interstate access universal service support mechanism.[10]

Accordingly, we seek further comment on the $650 million support amount available under the interstate access support mechanism. Specifically, we seek comment on the uses of a cost model, including the Commission's forward-looking high-cost model or the study submitted by AT&T in this proceeding, to identify the appropriate amount available under the interstate access support mechanism. We also seek comment on the use of other studies or analyses to determine whether $650 million is the support amount that best serves the Commission's universal service goals.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments 30 days or fewer from publication in the Federal Register, and reply comments 45 days or fewer from publication in the Federal Register. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[11] Comments filed through the ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/e-file/ecfs.html. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal

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[5] *TOPUC*, 265 F.3d at 327-28. The court also reversed and remanded the Commission's adoption of a 6.5 X-Factor – which, under the CALLS plan, determines the rate at which access charges are reduced to target levels -- because the Commission failed to state a rational basis to support the 6.5 percent figure. *Id.* at 328-29. The Commission intends to rely on the existing record in this proceeding to address that issue on remand.

[6] *Id.* at 327-28.

[7] *Id.* at 328.

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] 47 C.F.R. §§ 1.415, 14.19. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998).

Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554.

Parties also should send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-A422, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's duplicating contractor, Qualex International, Portals II, 445 12th St., SW, Room CY-B402, Washington, DC 20554.

Pursuant to section 1.1206 of the Commission's rules,[12] this proceeding will continue to be conducted in a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure. For further information, please contact: Ted Burmeister, Accounting Policy Division, Common Carrier Bureau, (202) 418-7400.

[12] 47 C.F.R. § 1.1206.