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

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Low-Volume Long Distance Users	)	CC Docket No. 99-249
	)	
Federal State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

COMMENTS OF AT&T CORP.

Pursuant to the Commission's *Notice,* dated December 4, 2001 (DA-2817), AT&T Corp. ("AT&T") submits these comments demonstrating that the Commission's use of an annual $650 million interstate access support mechanism is fully supported by the record.

INTRODUCTION

The issue that the United States Court of Appeals for the Fifth Circuit remanded to the Commission is a narrow one.[1] Although the Court otherwise upheld the *CALLS Order*,[2] it held that the Commission failed adequately to explain its choice of $650 million as the size of

[1] *See Texas Office of Public Utilities* v. *FCC*, 265 F.3d 313 (5th Cir. 2001) ("*TOPUC II*").

[2] *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users*; *Federal-State Joint Board on Universal Service*, Sixth Report and Order in CC Docket No. 96-262 and 94-1; Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd. 12962 (2000) ("*CALLS Order*").

the interstate access support fund on a record that included a wide range of proposals. *See TOPUC II* at 328.[3]

This deficiency is easily cured. As the Court explained, the Commission "must provide some explanation as to why it found one [cost] study more persuasive than the other, even if it does not determine a precise amount as the only 'correct' figure." *TOPUC II* at 328. One such valid explanation, the Court noted, would be that "the AT&T study[, which supported the $650 million amount,] applied the [Commission's] synthesis model," while the other studies "made unwarranted assumptions." *Id.* As explained below, the record fully supports precisely that explanation and finding.

I. THE SYNTHESIS MODEL-BASED AT&T COST STUDY EVIDENCE FULLY SUPPORTS THE ADOPTION OF A $650 MILLION ANNUAL INTERSTATE ACCESS SUPPORT MECHANISM.

There is no question that the Commission's Synthesis Model is, at least on an interim basis, appropriate for computing the annual amount of interstate access support. The Commission has repeatedly emphasized that its Synthesis Model "generates reasonably accurate [results] . . . and that the model is the best basis for determining non-rural carriers' high-cost support." *Inputs Order* ¶ 23.[4] "[T]he Commission and its staff have undertaken a thorough review of the [synthesis] model and its input values. . . . In so doing, the staff has coordinated extensively with and received substantial input from the Joint Board staff and interested outside parties. As a result of this examination of the model, [the Commission has] . . . concluded . . .

[3] The Commission is not considering the remanded X-factor issue in this proceeding. *See Notice* at 2, n.5.

[4] *Federal-State Joint Board on Universal Service; Forward-Looking Mechanism for High Cost Support for Non-Rural LECs,* Tenth Report and Order, 14 FCC Rcd. 20156 (1999) ("*Inputs Order*").

that the [synthesis] model is the best basis for determining non-rural carrier's high-cost support in a competitive environment." *Id*. Thus, since 1999, the Commission has used the Synthesis Model – which computes the forward-looking economic costs of providing supported services – to compute federal universal service support for intrastate (local) rates.[5]

No reviewing court could find fault with a Commission determination to rely upon the same cost model, with the same inputs, to compute the costs of the exact same network to determine *inter*state support. The cost of a loop does not differ depending on where the electronic signal traveling over that loop originated, and the Commission has recognized as much. To compute federal high-cost support in such a way that ensures reasonable intrastate rates, the Commission uses the Synthesis Model to calculate, among other costs, *total* loop costs (as opposed to separate intra- and interstate loop costs). Based on its Separations Rules (47 C.F.R. Part 36), the Commission then allocates 75 percent of the total loop costs to intrastate activities for the purpose of computing federal universal service support to the intrastate jurisdiction. *Universal Service Ninth R&O* ¶ 63. The remaining 25 percent of loop costs is attributable to interstate activities, and that amount can reasonably be used to compute interstate access support. That is what AT&T did.

AT&T used "the Commission's latest version of the Synthesis Model without modification" to determine total loop costs (including port costs).[6] AT&T then attributed

[5] *See, e.g., Calls Order* ¶ 25; *Federal-State Joint Board on Universal Service*, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd. 20432 (1999) ("*Universal Service Ninth R&O*").

[6] To compute costs, AT&T aggregated the serving wire centers in each study area into three cost zones: low, medium, and high, such that the number of lines in each cost zone was roughly equal. *See* CALLS Reply Comments, Declaration of Joel E. Lubin, ¶ 2 (filed December 3, 1999).

25 percent of those costs to interstate activities. Next, AT&T compared the interstate costs to the maximum affordable subscriber line charges ("SLCs") for multiline businesses, primary residential, non-primary residential and single-line business lines. To the extent that the costs exceeded the SLC caps, the difference represented the amount that should be funded by the access support mechanism. That analysis demonstrated that $650 million is a reasonably accurate estimate of the level of interstate universal service support that is required to guarantee universal service under the CALLS plan.[7] Thus, the cost study submitted by AT&T fully supports the Commission's finding that, at least on an interim basis, the appropriate size of the interstate access support mechanism is $650 million.[8]

For these reasons, the Commission can (and should) explicitly rely on AT&T's cost study to explain its finding that a $650 million interstate access support amount is appropriate, as suggested by the Court's remand order.

II. THE OTHER STUDIES IN THE RECORD RELY UPON UNWARRANTED ASSUMPTIONS.

As noted above, the United States Court of Appeals for the Fifth Circuit explained that, on remand, the Commission should not only explicitly rely on an appropriate cost study to explain its decision to size the interstate access support mechanism at $650 million, but that the

[7] *See id.* ¶ 2.

[8] AT&T also submitted a forward-looking cost study based on the HAI Model version 5.0a demonstrating that the appropriate size of the interstate access support mechanism is $250 million. The Commission has previously concluded, however, that its Synthesis Model, which is based in large part upon the HAI model, provides a more reasonable platform for estimating universal service costs. *See generally Federal-State Joint Board on Universal Service; Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, Fifth Report and Order, 13 FCC Rcd. 21,323, ¶ 4 (1998) (adopting a model platform that combines the HAI cost model with other cost models to produce the synthesis model); *Inputs Order* ¶ 2 (adopting

Commission should also explain why the other "cost studies" submitted in the proceeding are less reliable or credible. *See TOPUC II* at 328. Accordingly, the Court directed the Commission to explain why the competing "cost studies" "made unwarranted assumptions." *Id.* As detailed below, other "cost studies" in the record did rely on improper assumptions or methodologies.

Rogerson & Kwerel Proposal. In May 1999, William Rogerson and Evan Kwerel presented "A Proposal for Universal Service and Access Reform" ("R&K Proposal") to the Commission.[9] That proposal contains an approach to reforming the universal service and access charge regimes that is similar to the CALLS plan. However, the R&K Proposal contains at least one critical flaw: The size of the interstate access support mechanism in the R&K Proposal is improperly based on *embedded costs*. *See CALLS Order* ¶ 199. The Commission has specifically "reject[ed] . . . basing the support mechanisms on a carrier's embedded cost," noting that "[t]he use of embedded cost would discourage prudent investment planning because carriers could receive support for inefficient as well as efficient investments." *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd. 8776, ¶¶ 227-228 (May 8, 1997). For that reason, the Commission has directed that "federal support should be calculated by determining the *forward-looking economic cost* [and not the embedded cost] of providing the supported services." *Id.* ¶ 223 (emphasis added). Thus, the R&K proposal clearly makes unwarranted assumptions that preclude its use in determining the size of the interstate fund.[10]

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inputs that combine those of the HAI model with those of other cost models to produce the Synthesis Model).

[9] *See Ex Parte*, A Proposal for Universal Service And Access Reform, by William Rogerson and Evan Kwerel (filed May 26, 1999).

[10] The R&K Proposal is flawed in other respects as well. The estimates in the R&K Proposal rely on SLC-equivalent per-line charges for residential customers that are as much as $2.00

USTA Cost Study. The cost study supported by USTA[11] also improperly estimates the appropriate size of the interstate access support mechanism based on the embedded costs. *See CALLS Order* ¶ 199. Indeed, USTA argued vigorously against the use of any forward-looking cost model. *See* USTA Comments at 3-4. Thus, for the reasons stated above, the USTA proposal cannot be relied upon as an accurate assessment of the appropriate size of the interstate access support mechanism.[12]

ALTS/Time Warner Estimate. The interstate access support mechanism jointly proposed by ALTS and Time Warner[13] is based on an "alternative plan"[14] – which substantially reduced the need for interstate access support – that was ultimately rejected by the Commission when it adopted the CALLS plan. Thus, because the Commission ultimately rejected the adjustments in the ALTS/Time Warner "alternative plan," the support estimates computed by ALTS and Time Warner that are based on that alternative plan are irrelevant to the issue here – *i.e.*, the appropriate size of the access support mechanism under the *CALLS* plan.[15]

US WEST Cost Study. US WEST submitted a cost study purportedly based upon the Commission's Synthesis Model that US WEST claimed supported an interstate support

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lower than the SLC rates in the CALLS plan, which result in correspondingly larger interstate access support requirements.

[11] *See* USTA Comments, Att. 1 (filed July 23, 1999).

[12] *See also CALLS Order* ¶ 199, n.434 ("The level of implicit support estimated using USTA's methodology, however, would be lower using the SLC rates that are described in the Modified [CALLS] Proposal").

[13] *See* Joint Comments of ALTS & Time Warner (filed April 3, 2001) ("ALTS/TW Comments").

[14] *See* ALTS/TW Comments at 15 ("ALTS and TWTC have developed an alternative . . . [for the CALLS plan] for price cap, access charge, and universal service reform"); *see also id.* 15-17.

[15] Even if the ALTS/Time Warner analysis was relevant to determining the size of the interstate access support mechanism, it could not be relied upon because those parties provided no cost support for their findings.

mechanism of at least 1.2 billion dollars.[16] US WEST has since effectively abandoned this cost study by joining the CALLS plan which supports the $650 million size for the interstate access support mechanism.[17] Moreover, no other party to this proceeding has fully supported US WEST's methodology. Thus, there remains no support in the record for US WEST's cost study and, therefore, it cannot reasonably be relied upon to size the interstate access support mechanism.

In any event, the US WEST proposal makes unwarranted assumptions that dramatically overstate the amount of interstate access support that will be required under the CALLS plan. As an initial matter, US WEST assumes that the SLC will be capped at $6.50 for all customers. That assumption is inconsistent with the CALLS plan which includes a $9.20 SLC cap for multiline business users. Because the size of the interstate access support mechanism is determined by the difference in the ILECs' costs and per line SLC charges, US WEST's understatement of SLC for multiline businesses (of almost $3.00) substantially overstates interstate access support requirements.[18] Furthermore, US WEST has arbitrarily chosen a small area (*i.e.*, two high-cost/low-density zones) for averaging costs, notwithstanding the fact that the Commission's Synthesis Model is not designed to measure accurately costs in

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[16] *See* Comments of US WEST at 7-9 (filed April 3, 200); Reply Comments of US WEST at 3-4 (filed April 17, 2001).

[17] *See, e.g.*, Qwest Corp., 10-Q Quarterly Report (filed with the SEC on May 15, 2001) (stating that Qwest (created by merger of US WEST and Qwest) has "opted into the five-year CALLS plan").

[18] *See CALLS Order* ¶ 204 ("US West's estimate assumes a multi-line business SLC of $6.50, rather than $9.20. Therefore, US West's estimate fails to account for a significant amount of revenue that will be recovered through multi-line business SLC, and thus does not need to be recovered through the interstate access universal support mechanism.").

such small areas.[19] This improper averaging methodology further inflates US WEST's estimate of the appropriate size of the interstate access support mechanism. Thus, the Commission should disregard the interstate access support estimate proposed by US WEST.

[19] *See Universal Service Ninth R&O* ¶¶ 43-52.

CONCLUSION

For the foregoing reasons, the Commission should address the concerns of the United States Court of Appeals for the Fifth Circuit by explicitly relying on the Synthesis Model cost study submitted by AT&T to size the interstate access support mechanism at $650 million.

Respectfully submitted,

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