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

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

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APR 1 0 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC. IN RESPONSE TO THE TENTH CIRCUIT REMAND

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EXECUTIVE SUMMARY

To comply with the Tenth Circuit's remand, the federal universal service funding mechanism for non-rural carriers will need to accomplish two fundamental goals. First, it will need to ensure reasonable comparability of rates between rural and urban areas *across* state boundaries. Second, it will need to do considerably more to ensure reasonable comparability *within* state boundaries. Because the Commission cannot directly force the states to comply with this federal universal service scheme, it will need to give them an adequate incentive – a "carrot" – to ensure reasonable comparability within their borders. That incentive will be effective, however, only if the federal fund is large enough, and allocated broadly enough, to make a difference to most states. In other words, the great majority of states must be eligible for a slice of the federal "pie," and the pie itself must be large enough that the states have an incentive to qualify for their individual slices. Achieving these goals will require the Commission to play a somewhat larger role in sharing universal service responsibilities with the states, but that larger role is an inescapable consequence of the Tenth Circuit's decision concerning the Commission's statutory obligations.

In these comments, Qwest outlines an approach that would simultaneously meet the Tenth Circuit's requirements on remand but also accommodate the Commission's long-standing concern for states with unusually high statewide average costs. Qwest's proposal has three basic components. *First*, the federal mechanism would provide federal subsidies ("Tier 1 funds") for the costliest wire centers in the United States, irrespective of state boundaries. By ensuring federal funding for the costliest *wire centers* nationwide, this approach would address the Tenth Circuit's concern that the Commission's prior approach, which limited federal funding only to the highest-cost *states*, impermissibly "substituted a comparison of national and statewide averages for the statutory comparison of urban and rural rates." Just as important, unlike the existing scheme, this approach would provide federal funding for the vast majority of states. It would thus give most states, rather than a mere handful, the required incentives to meet appropriate conditions on the disbursement of these funds, including the establishment of sustainable state-level mechanisms for ensuring intrastate reasonable comparability of rates.

Second, under Qwest's proposal, the federal mechanism would further make supplemental ("Tier 2") funds available to several *states* with unusually high statewide average costs, such that those states have the resources needed to keep their highest "rural" rates below a national threshold representing average "urban" rates throughout the United States. This Tier 2 mechanism would be similar to the basic approach of the *Ninth Report and Order*, except that it would be more precisely calibrated to enable a given state – using its own explicit, competitively neutral fund – to cap "rural" rates at a defined national level to ensure "reasonable comparability" with "urban" rates nationwide.

Finally, the Commission should condition receipt of any of these federal funds both on a state's certification that it has achieved reasonably comparable rates within its borders and, over time, on its demonstrated willingness to make the transition from implicit cross-subsidies to explicit, competitively neutral funding mechanisms. All customers, except those in the highest cost areas, should be served at rates approximating cost, and all subsidies for high cost customers should be drawn from an explicit fund. Just as the Commission has rationalized interstate access charges and has sought to replace subsidies implicit in those access charges with an explicit funding mechanism, so too should the states be expected to rebalance their own retail rates and reform intrastate access charges. Otherwise, competition will make above-cost rates, and any universal service objectives based on above-cost rates, wholly unsustainable over the long term.

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COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL, INC.
IN RESPONSE TO THE TENTH CIRCUIT REMAND

Qwest Communications International, Inc. ("Qwest") respectfully submits these comments on remand from the Tenth Circuit's decision in *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001). Qwest proposes a revised federal mechanism that, if adopted, would meet the Commission's "*responsibility* to ensure that the states act" to promote reasonable comparability of rates within their borders, *id.* at 1204, while simultaneously preserving the Commission's long-standing emphasis on ensuring reasonable rate comparability *among* the states as well. Qwest's proposed funding mechanism would have three main working parts. *First*, it would provide federal funding for all *wire centers*, regardless of state boundaries, whose average per-line costs exceed a given dollar benchmark. *Second*, it would provide supplemental funding for *states* that have such high statewide average costs that, even taking into account the wire center funding just mentioned, they would lack the internal resources to keep their rates reasonably comparable to those in other states. *Finally*, Qwest's proposal would condition all federal funding on a state's certification that it has achieved reasonable comparability within its borders and, over time, on its progress in producing such comparability through explicit, competitively neutral support mechanisms rather than through traditional implicit cross-subsidies.

INTRODUCTION AND SUMMARY

In vacating the *Ninth Report and Order*, the Tenth Circuit held that the federal government cannot meet its universal service obligations simply by sending money to states with unusually high statewide average costs and then counting on those states -- and all others -- to ensure reasonable comparability within their borders. 258 F.3d at 1204. As the Tenth Circuit has found, supplementing the funding capabilities of the highest-cost states is a necessary, but not sufficient, mechanism for meeting the Commission's ultimate statutory obligation: ensuring actual "comparability" of residential rates on a nationwide basis. The Tenth Circuit thus directed the Commission to take additional steps itself to ensure such comparability, both within the states and among them.[1]

One course available to the Commission is to supplant the states' role altogether and enlarge the federal fund to cover the entire amount needed to ensure "sufficiency" of support and comparability of urban and rural rates on a nationwide basis. Relying on the Synthesis Model, Qwest has computed this amount to fall somewhere in the neighborhood of $4-6 billion.[2] The

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[1] This proceeding addresses only the high-cost mechanism for areas served by *non-rural* carriers; as the Commission is aware, a separate mechanism provides support for "rural" carriers. Throughout these comments, Qwest excludes from all of its calculations (of "national average line cost" and so forth) the areas served by rural carriers. The Commission followed a similar approach in the *Ninth Report and Order*. Ninth Report and Order and Eighteenth Order on Reconsideration, *Federal-State Joint Board on Universal Service*, 14 FCC Rcd 20432, 20490 ¶ 114 (1999) ("Ninth Report and Order"), *rev'd sub. nom.* Qwest Corp. v. FCC, 258 F.3d 1191 (10th Cir. 2001).

[2] Specifically, the federal high cost mechanism for non-rural carriers would need to be approximately $4 billion to cover the cost of all wire centers above $25. A methodology based on a comparison of the Synthesis Model's cost estimates on a wire center basis with the average residential rate in each state would generate a federal fund size of more than $6 billion. (This $4-6 billion figure encompasses costs on both the interstate and intrastate sides of the ledger.) All figures in these comments derived from the Synthesis Model are based on the latest publicly available numbers, rather than on any proprietary figures. *See also* note 17, *infra* (discussing shortcomings of Synthesis Model).

Tenth Circuit has held, however, that the Commission may share some of this responsibility with the states so long as it also takes steps to ensure that they play their part to ensure "reasonable comparability." These comments will assume that the Commission wishes to pursue that approach.

On that assumption, the Commission has three basic options for meeting its obligations under the Tenth Circuit's decision. *First*, it could seek to retain as much as possible of the *state*-oriented approach of the *Ninth Report and Order,* allocating funds principally on the basis of statewide average costs. As before, however, that approach would impermissibly "substitute[] a comparison of national and statewide averages for the statutory comparison of urban and rural rates,"[3] and it would thus be difficult to square with the Tenth Circuit's decision. Among other concerns, a state-oriented approach would preclude the Commission from meeting its obligation to induce the states (by "carrot" or "stick") to act on their ability to ensure reasonable comparability of rates within their borders.[4] That is so because the Commission cannot directly *order* the states to ensure such "comparability," and it must therefore "induce" them to do so by offering them federal subsidies in return for their cooperation. By definition, however, and as shown by the results of the current mechanism, a funding mechanism targeting only unusually high-cost *states* would deny any funding at all to *most* states – and would therefore disable the Commission from "inducing" compliance with the "reasonable comparability" objective.

The Commission's next basic option is to provide federal funding only to high cost *wire centers* throughout the country, irrespective of state boundaries. Standing alone, however, that approach might well preclude the Commission from ensuring "reasonable comparability" of

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3 258 F.3d at 1202.

4 *Id.* at 1204.

rural and urban rates on a nationwide basis, because, as the Commission observed in the *Ninth Report and Order*, some states may lack sufficient resources within their borders to ensure reasonable comparability between their retail rates and those in most other states. The Commission identified such state-to-state comparability of rates as an essential goal of 47 U.S.C. § 254, and nothing in the Tenth Circuit's decision disturbs that determination.

Finally, the Commission could employ some combination of the preceding two approaches, providing subsidies to the highest cost wire centers nationwide, "inducing" the states (through the imposition of funding conditions) to ensure reasonable comparability within their borders, and providing supplemental funding to a few states with unusually high statewide average costs to enable those states to keep their rates "reasonably comparable" to those in other states. Only this last approach would meet all of the Commission's various objectives in this proceeding. Unlike the approach of the *Ninth Report and Order*, funding the highest-cost wire centers throughout the nation would ensure that most states actually *receive* federal funding – and would thus be subject to funding conditions designed to "induce" state-level compliance with the "reasonable comparability" requirement. Moreover, an appropriate respect for principles of state sovereignty requires the federal government – the same federal government that "induces" this state cooperation in the first place – to bear *some* significant share of the subsidy obligation for the most expensive wire centers in any state, no matter what state-level funding mechanisms might also be available. At the same time, the Commission can and should provide supplemental support to bring states with unusually high statewide average costs into rough parity with other states in their ability to adopt sufficient, competitively neutral universal service mechanisms.

A two-tiered federal allocation mechanism would give concrete form to these principles. Under the approach that Qwest proposes here, the federal mechanism would first provide, under "Tier 1," federal subsidies for the most costly wire centers in the United States, *irrespective of state boundaries*. By ensuring federal funding for the costliest *wire centers* nationwide, Tier 1 would address the Tenth Circuit's concern that the Commission's prior approach, which limited federal funding only to the highest-cost *states*, impermissibly "substituted a comparison of national and statewide averages for the statutory comparison of urban and rural rates."[5] For these purposes, the "most costly" wire centers could be defined as those whose average per-line costs exceed some designated multiple of the national average cost per line (now $23.03), as determined by the Synthesis Model, ranging from $34.55 (1.5 times the national average) to $46.06 (two times) to $57.58 (2.5 times) to $69.09 (three times). Tier 1 funds would cover all costs exceeding that dollar benchmark for each such wire center. "Tier 2" funds would then provide supplemental federal funding to *states* with unusually high statewide average costs, such that those states (like all others) have the resources needed to keep their highest rural rates below a certain national threshold, as discussed below.

Finally, to comply with the Tenth Circuit's decision, the Commission should condition any federal funding not just on a state's willingness to keep its rural rates "reasonably comparable" to its urban rates, but also, over time, on the state's willingness to engage in rate rebalancing and the other reform measures required by section 254. As the Commission is well aware, many states have demonstrated an intractable reluctance to make the transition from unsustainable implicit cross-subsidies to explicit, competitively neutral funding mechanisms. This reluctance is most unfortunate, because competition will relentlessly erode the implicit

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5 *Id.* at 1202.

subsidies for below-cost residential rates derived from any above-cost retail business rates or intrastate access charges. There can be no "reasonably comparable" rates over the long term until the states act to address that problem. The Tenth Circuit's decision thus gives the Commission an unparalleled opportunity on remand to induce the states to move at last towards rational, explicit, and (most important) sustainable universal service regimes. Because the great majority of states would receive substantial federal support for high-cost wire centers under Tier 1, they would have strong incentives to cooperate with the Commission in meeting the various underlying goals of section 254.

Properly implemented, the two tiers of Qwest's proposed approach, combined with appropriate conditions on the availability of these federal funds, would help keep rural rates reasonably comparable to urban rates throughout the United States. At this early point in the proceedings, however, Qwest is proposing only this general *framework*: *i.e.*, a two-tier funding mechanism that addresses high costs averaged at the wire-center level, as well as illustrative examples of how this methodology would work in practice. *See* Attachment A, Declaration of Byron Watson. The framework proposed here is designed to stimulate further discussion – and to be sufficiently flexible that this Commission can fine-tune the details to accommodate the several different policy objectives at issue in this proceeding.

BACKGROUND

The *NPRM* seeks comment on how to restructure the allocation of federal USF subsidies in light of the Tenth Circuit's decision in *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001). As the Commission is aware, the *Ninth Report and Order* confined the federal role to reducing the impact of cost discrepancies *among the states*, while leaving it entirely to each state to ensure reasonable comparability of rates *within its borders*.[6] Accordingly, the Commission's plan did not ensure reasonable comparability between rates in "urban" areas and those in "rural, insular, and high cost areas," even though that is an explicit focus of section 254.[7] Instead, the federal mechanism simply covered all costs above 135% of the national average in *states* whose *average* costs exceed that benchmark – and stopped there.[8]

The Tenth Circuit invalidated that approach because it was not designed to ensure, and did not in fact ensure, reasonable comparability in end user rates *between rural areas and urban areas* on a nationwide basis.[9] In so ruling, the court reasoned that the Commission had failed to provide adequate definitions for key terms such as "reasonable comparability" and "urban," and it strongly suggested that a 70-80% discrepancy between rural rates and urban rates (however defined) would violate section 254's objective of "reasonably comparable" rates.[10] The court also found that the Commission had erred in disclaiming responsibility for inducing the states to use universal service mechanisms of their own to ensure reasonable comparability of rates within their borders.[11]

In its *NPRM* on remand, the Commission has sought comment on: (1) whether it should continue to use a benchmark based on nationwide average loop costs compared to the statewide average and what the benchmark should be,[12] (2) how to define "reasonable comparability" and

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6 *Ninth Report and Order* at 20453-54 ¶ 38.

7 *See* 47 U.S.C. § 254(b)(3).

8 *Ninth Report and Order* at 20457, 20463-64 ¶ ¶ 45, 55.

9 285 F.3d at 1202.

10 *Id.* at 1201.

11 *Id.* at 1204.

12 Notice of Proposed Rulemaking and Order, *Federal-State Joint Board on Universal Service*, CC Docket 96-45, FCC 02-41 ¶¶ 20-21 (rel. Feb. 15, 2002) ("NPRM").

"sufficient," including how widely rural and urban rates may vary yet remain "reasonably comparable" for purposes of section 254,[13] and (3) how the Commission should induce states to implement mechanisms of their own to support universal service.[14]

Two important caveats are in order. First, for reasons that the Commission itself explained in the *Seventh Report and Order*, it is more appropriate to base implementation of the "reasonable comparability" (and "sufficiency") mandates of section 254 on objective *cost* criteria (as defined by the Synthesis Model) than on the details of the retail pricing regimes actually in effect in the 50 states.[15] Thus, in comparing the "reasonable comparability" of rates in a given state against urban and rural rates nationwide, these comments use wire center "costs," as determined by the Synthesis Model, as a proxy for the rates that will be sustainable once the present jumble of implicit cross-subsidies are eliminated and all states move to explicit, competitively neutral funding mechanisms. For purposes of proposing a new federal mechanism, therefore, these comments exclude consideration of the idiosyncrasies of any given state's traditional subsidy mechanisms.

Second, Qwest proposes employing the Synthesis Model solely for the limited purposes discussed here, not as a measure of actual costs more generally. As Qwest has elsewhere explained, most recently in its Triennial Review comments,[16] the Synthesis Model understates cost and is flawed in a variety of fundamental respects. Nonetheless, Qwest recognizes that any

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13 *Id.* at ¶ 16.

14 *Id.* at ¶ 24.

15 Seventh Report and Order and Thirteenth Order on Reconsideration, *Federal-State Joint Board on Universal Service*, 14 FCC Rcd 8078, 8092-93 ¶ 32 (1999) ("Seventh Report and Order").

16 Comments of Qwest Communications International Inc., *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers,* CC Docket No. 01-338, filed April 5, 2002, pp. 55-56 ("Triennial Review Comments").

high cost support mechanism must be based on a cost model, and the Commission has given no indication that it is considering alternatives to the Synthesis Model for these purposes.[17]

DISCUSSION

I. The Commission's Principal Challenge On Remand Is To Ensure National Comparability Of Rates Among States While Preserving Adequate Incentives For All States To Comply With The Objectives Of Section 254 Within Their Borders.

Any universal service scheme the Commission adopts on remand will need to accomplish two fundamental goals. *First*, the federal mechanism must ensure reasonable comparability in such rates across state boundaries. As the Commission has previously observed, "[b]y specifying that '[c]onsumers in all regions of the Nation' should have rates and services reasonably comparable to rates and services in urban areas, we believe that Congress intended national, as opposed to state-by-state comparisons."[18] For example, the Commission would presumably neglect its mandate if, after implementation of its universal service plan, rural *and* urban residential rates in some states were set at $50 but average urban 1FR rates in a number of

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[17] Although this issue may need to be addressed in a different setting, Qwest continues to maintain that the Synthesis Model is seriously flawed and should be repaired by the FCC. Among the Synthesis Model's many documented - yet unaddressed - flaws, some of the most significant are the following. First, the Synthesis Model uses 1996 customer location data, yet compares these locations to 2001 line counts. The Synthesis Model assumes that all new lines added since 1996 are secondary lines, while all parties acknowledge that many new lines are for new customer locations. This error in the Synthesis Model understates cost, especially for high growth wire centers, because secondary lines cost far less to provision. Second, the Synthesis Model improperly considers all high capacity special access lines as circuit equivalents. For example, while the Synthesis Model (inadequately) builds two copper loops to simulate a DS3, it then divides the cost of those facilities by a DS3's circuit equivalent (672). This unjustifiable mismatch between the numerator (investment) and the denominator (capacity) in the cost calculation seriously understates costs. Third, the Synthesis Model mishandles multi-dwelling buildings. Inexplicably, the Synthesis Model only provisions a single drop and network interface device for a building with potentially thousands of access lines.

[18] *Seventh Report and Order* at 8094-95 ¶ 35, *quoting* 47 U.S.C. § 254(b)(3).

more densely populated states remained at $20 or below. Nothing in the Tenth Circuit's decision is to the contrary.

At the same time, the Tenth Circuit's decision makes clear that the federal mechanism must do considerably more to ensure reasonable comparability *within* state boundaries. The court found that in focusing *only* on the interstate parity concern, the Commission had "substituted a comparison of national and statewide averages for the statutory comparison of urban and rural rates."[19] That limited focus, the court found, violated the Commission's obligations under section 254. "[The Commission] remains obligated to create some inducement – a 'carrot' or a 'stick,' for example, or simply a binding cooperative agreement with the states – for the states to assist in implementing the goals of universal service. For example, the FCC might condition a state's receipt of federal funds upon the development of an adequate state program[.]"[20]

As a practical matter, that holding leaves this Commission with a circumscribed range of options on remand. Because the states have severely conflicting interests in the allocation of federal universal service funds, and because they take vastly different views on the appropriate means of ensuring affordable rates within their borders, they are unlikely, at least in the foreseeable future, to enter into a binding "cooperative agreement" with the FCC on those very issues. Moreover, the Commission lacks clear authority simply to *compel* any given state to comply with the goals of this federal scheme.[21] Alternatively, the Commission could simply displace the state role altogether and assign to the federal fund the complete responsibility for

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19 258 F.3d at 1202.

20 *Id.* at 1204.

21 *See Printz v. United States*, 521 U.S. 898 (1997).

allocating the roughly $4-6 billion necessary to ensure reasonable comparability on a nationwide basis. *See* pp. 2-3, *supra*. But the Commission is unlikely to assume *that* role, and the Tenth Circuit has reaffirmed its right not to do so.[22]

That leaves one truly feasible solution: as the Tenth Circuit suggested, the Commission may "induce" the states to advance the goals of section 254 by imposing conditions on each state's receipt of federal universal service subsidies.[23] That "carrot" can satisfy this Commission's obligations on remand, however, only if the federal fund is large enough, and allocated broadly enough, to make a difference to *most* states. In other words, for these "inducements" to serve their purpose, the great majority of states must be eligible for a slice of the "federal pie," and the pie itself must be large enough to give the states a meaningful stake in qualifying for their individual slices.

In sum, the clear import of the Tenth Circuit's decision is that, although the Commission need not alone fund the full costs of universal service,[24] it must assume a much more prominent role in addressing those costs than it did under the *Ninth Report and Order*. Otherwise, if it were to adopt the same basic state-oriented approach as the *Ninth Report and Order*, the Commission would fall far short of its obligation on remand to "induce" state action to effectuate the goals of section 254. Even apart from that consideration, a larger role for the federal fund is necessary

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22 258 F.3d at 1203.

23 Although the *NPRM* suggests that a "state share" mechanism (similar to the one proposed in the *Seventh Report and Order*) might help induce the states to meet the goals of section 254, *NPRM* at ¶ 24, that suggestion is difficult to understand. The "state share" proposal in the *Seventh Order* is designed to address each state's *ability* to fund universal service, not its *willingness* to do so. *See Seventh Report and Order* at 8091-92 ¶ 29 (describing the state-share mechanism as ensuring that "support is available where a state would 'find it particularly difficult to achieve reasonably comparable rates, absent such federal support'").

24 258 F.3d at 1203-04.

for reasons of federal-state comity as well. By ensuring that the federal government plays a significant role in subsidizing unusually high-cost wire centers throughout the United States, the Commission would blunt any criticism that it had offended principles of state sovereignty by requiring most states to do all of the work necessary to ensure compliance with the new federal obligations of section 254.

II. The Commission Should Adopt A Two-Tiered Funding Mechanism That Focuses Both On High-Cost Wire Centers And High-Cost States.

Assuming a state role in universal service support, the Commission has three basic options on remand in deciding how to ensure nationwide urban-rural comparability within and among states: it can (1) earmark additional federal support solely to the costliest serving areas nationwide (irrespective of state boundaries), (2) provide such support only to particularly high-cost states and condition that support on the willingness of those states to use their own resources to ensure reasonable comparability within their borders, or (3) adopt some combination of the two approaches: *i.e.*, providing federal support to the highest-cost serving areas (regardless of state boundaries) and some degree of supplemental support to the states with the highest average costs. Only the third of these options, embodied in Qwest's proposal here, would meet all of the Tenth Circuit's concerns and the Commission's goals in this proceeding.

First, the Tenth Circuit invalidated the *Ninth Report and Order* on the ground (among others) that section 254 "requires a comparison of rural and urban areas, not states."[25] The most important step the Commission needs to take on remand is therefore to reorient the universal service mechanism to focus, in the first instance, on *wire centers* rather than *states.* Ironically, even before the Tenth Circuit's decision, the Commission itself recognized the considerable

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25 *Id.* at 1204.

policy advantages of precisely this approach. As it explained, determining need by averaging costs at the wire center level presents "the advantage of providing a more granular measure of support, and that granularity of support is a desirable goal in a competitive marketplace."[26] Cost-averaging at the wire center level also targets support to the rural customers who most need it. "As competition places downward pressure on rates charged to urban, business, and other low-cost subscribers, we believe that support deaveraged to the wire center level or below may ensure that adequate support is provided specifically to the subscribers most in need of support, because the support reflects the costs of specific areas."[27] At the same time, because states vary considerably in their ability to subsidize rates reasonably comparable to the national norm, the Commission can and should (as discussed above) provide an additional measure of funding to states with unusually high average costs.

The optimal method for accomplishing both of these goals is to adopt a two-tiered system that focuses both on unusually high-cost wire centers *and* unusually high-cost statewide average costs. Under this approach, "Tier 1" funds would be available to the vast majority of states and would cover the highest cost wire centers throughout the United States regardless of their location. Tier 1 funds would thus be designed specifically to ensure reasonable comparability between rural and urban areas. Just as important, because most states would receive Tier 1 subsidies, those subsidies would provide an effective "carrot" for encouraging the states as a whole to implement their own universal service mechanisms to ensure reasonably comparability

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[26] *Ninth Report and Order* at 40459 ¶ 48; *see also* Report and Order, *Federal-State Joint Board on Universal Service,* 12 FCC Rcd. 8776, 8912 ¶ 250 (1997) (suggesting that support should be deaveraged to the wire center serving area at least, and, if feasible, even smaller areas) ("First Report and Order"), *aff'd in part, rev'd in part, remanded in part sub nom.* Texas Office of Pub. Util. Counsel v. FCC, 183 F.3d 393 (5th Cir. 1999), *cert. denied in part,* 530 U.S. 1210 (2000), and *cert. granted in part*, 531 U.S. 1124 (2000), *cert. dismissed* 531 U.S. 975.

[27] *Seventh Report and Order* at 8127 ¶ 103.

of rates *within* state boundaries. "Tier 2" subsidies would then act as a safety net to ensure that states with unusually high average costs receive extra funding to ensure reasonable comparability of rates *among* the states.

1. The Mechanics of Two-Tiered Support

The first step in structuring a two-tiered support mechanism is to establish a benchmark signifying the wire centers that have such high average costs that they will receive federal funding (under Tier 1) irrespective of state boundaries. For the reasons discussed below, that benchmark would need to be set between one and a half times and three times the national average cost per line, as determined by the Synthesis Model. Tier 1 funds would then cover all costs above that benchmark for any wire center whose average costs per line exceed the benchmark. Suppose, for example, that the Commission chooses to set the benchmark at $58, which is approximately 2.5 times the national average cost per line (roughly $23). If the average per-line cost in a given wire center were $68, and if there were 5000 lines in that wire center, the Tier 1 mechanism would provide $50,000 (5000 times $10) of funding for carriers serving that wire center.

Areas with per-line costs above $58 undoubtedly qualify as "rural" and "high cost," and indeed the Commission could reasonably select any percentage between one and a half and three times the national average for purposes of identifying wire centers eligible for Tier 1 funding. According to publicly available information on the Commission's Synthesis Model, wire centers with average costs greater than twice the national average serve only 3.8% of the circuit-switched lines, and wire centers with average costs greater than three times the national average serve only 1.2% of such lines. Appendix A at 3.[28]

The Commission should separately adopt a second tier of high cost support (Tier 2) that would provide supplemental funds to a limited number of *states* whose average costs exceed the national average by some prescribed amount, again as determined by the Synthesis Model. The basic problem that makes Tier 2 funding appropriate is the likelihood, which properly concerned this Commission in the *Ninth Report and Order*, that some states lack the internal resources necessary to support rates comparable to those in other states. In the *Ninth Report and Order*, the Commission sought to address that need by providing federal funding for all states whose statewide average costs exceed the national average by 135%. The approach proposed here under Tier 2 is similar but distinct. As before, the Commission should focus on state costs rather than actual state rates. Instead of picking some arbitrary funding threshold above the national cost average, however, the Commission should tailor Tier 2 funds to enable a given state – using its own explicit, competitively neutral fund – to cap rural rates at some appropriately defined national level to ensure "reasonable comparability" with "urban" rates nationwide.

The following example illustrates one possible application of how Tier 2 funding might operate to ensure "reasonable comparability" of rates throughout the United States. Suppose that the Commission were to use a multiplier of 2.5 for Tier 1 funding. As discussed, such funding would then cover the costs of any wire center to the extent that they exceed $58 per line (2.5 times the national average cost per line of $23.03), for a total national subsidy amount of

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[28] Again, the national average is approximately $23, such that 1.5 times that that figure is approximately $35, twice that figure is approximately $46, 2.5 times that figure is approximately $58, and three times that figure is approximately $69. As noted before, all of these figures, as well as those in the text, exclude the areas served by "rural carriers" and reflect publicly available data.

approximately $723 million. Now suppose that the Commission further defines "urban" areas as those with at least 650 lines per square mile, a definition reflecting a natural break point in line cost analysis and encompassing all lines (roughly 73% of the total lines served by non-rural carriers) in wire centers with average costs below $22.79, as determined by the Synthesis Model.[29] The average cost of all "urban" lines under this definition is $18.80. The Commission could properly determine that the principle of "reasonable comparability" requires capping all rural rates within the United States at a level 50% above that $18.80 figure, or roughly $28.20.

Particularly once aided by Tier 1 funding, most states would be capable of rebalancing rates and designing an explicit universal service fund that subsidizes all costs for any line exceeding that figure. A few states, however, would be incapable of doing even that, because their average cost per line, even with Tier 1 subsidies deducted, would itself exceed $28.20. Tier 2 funding would thus be defined as the difference for any given state between that average cost (minus the Tier 1 subsidies) and $28.20 – *i.e.,* the amount necessary to enable a state using an explicit, competitively neutral fund to cap all rates within its borders at $28.20. Appendix A (at 5) illustrates the amounts that given states would receive under Tier 2 using this approach. Under the example above, which would satisfy both the Tenth Circuit's requirements and the Commission's own policy goals, the total Tier 2 obligation would be approximately $372 million, and the total federal obligation under both Tiers 1 and 2 would be approximately $1.095 billion. That in turn is still a reasonably small percentage of the $4-6 billion total subsidy need for high cost universal service support generally.

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29 *Cf. Qwest,* 258 F.3d at 1201 n.8 ("express[ing] no opinion as to whether 'urban' means 'non-rural' in this context"). As before, Qwest uses the forward-looking cost of serving a customer as a proxy for the (unsubsidized) rate that customer should be expected to pay over the long term.

As further demonstrated in Appendix A, the choice of the benchmark for Tier 1 would itself significantly affect (1) the size of the federal fund, (2) the percentages of lines, wire centers, and states within the United States that would be eligible for federal support, and (3) the necessary size of any Tier 2 fund. Obviously, the more federal money available under Tier 1, and the more states eligible to receive that money, the greater the likelihood would be that the federal fund would provide the incentives necessary to "induce" the states to comply with the obligations of section 254. To serve that purpose, the Tier 1 benchmark must be set somewhere below three times the national average (*i.e.*, $69 per line). At that level, although 46 states would receive some federal funding, only 15 would receive more than $1 million. In general, the higher the benchmark, the greater the risk that Tier 1 would allocate so little federal funding to the majority of states that the Commission would violate its obligation on remand to "develop mechanisms to induce adequate state action."[30]

Because proper implementation of Qwest's approach would make most states eligible for significant federal subsidies, it would significantly broaden the category of states over which the Commission can hope to have effective influence. Whereas 12 states qualify for non-rural high cost support under the Commission's present mechanism, at least 46-48 states (depending upon how the variables are filled) would qualify under Qwest's approach. *See* Appendix A at 3. Moreover, if the dollar benchmark were set within a range of $46 and $58 (respectively, two and 2½ times the national average), then between 24 and 33 of those states would receive more than $1 million in federal subsidies – an amount that they presumably would not lightly forgo by ignoring the conditions this Commission has legitimately imposed on the receipt of those subsidies.

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30 *Id.* at 1204.

In addition, Qwest's approach would reduce the extent to which the Commission would even *need* to "induce" the states to take action on their own to ensure reasonable comparability of rates within their borders, because Tier 1 funding would provide significant federal support for all "outlier" wire centers within *any* state. Put another way, because states would be relieved of much of the responsibility for the highest cost wire centers in the country, they would find it easier to narrow the gap between rural and urban rates within their borders. For example, in a state with average overall costs comparable to the national average, Tier 1 would eliminate all costs above, for example, $46, so that the state would need to narrow only a $15 to $46 gap between urban and rural rates, not a gap between $15 and the highest-cost wire centers in the state, whose average costs could approach or even exceed $100.

2. Fine-Tuning The Variables

This two-tiered formulation is designed to be flexible. Its variables include (a) the dollar benchmarks that trigger a federal funding obligation for given wire centers and (b) the definitions of "urban" and "reasonably comparable" that, taken together, define the federal obligation for supplemental funding under Tier 2. These variables can be fine-tuned to balance different statutory objectives and to vary the total size of the fund. Indeed, those variables can be defined not simply by fixed values, but alternatively by "step" functions, similar to those the Commission uses for rural carrier funding (and used for the former "high cost fund").[31] For example, for Tier 1 funding, wire centers themselves might be eligible for federal funding on a sliding scale. Simply by way of illustration, the federal contribution could cover 25% of the costs over $45, 50% of costs over $60, 75% of its costs over $75, and 100% of costs over $90.

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31 *See NPRM* at ¶ 20.

The appropriate criteria for Tier 2 funding would depend, to a large extent, on the Commission's separate definitions of "sufficient," "rural," "urban," and, of course, "reasonably comparable." How the Commission defines those terms – *i.e.,* how it defines the "high" and "low" rates that need to be compared, and what "reasonable comparability" itself entails – would significantly affect its choice of appropriate subsidy levels. As the Commission recognized in the *NPRM*, the Tenth Circuit's decision suggests that a 70-80% discrepancy between "urban" and "rural" rates would be too high to qualify as "reasonably comparable."[32] Nonetheless, the Commission retains some discretion in defining "urban" rates, and indeed the Tenth Circuit left open whether the term might reasonably be construed to mean "non-rural."[33] Moreover, at least for present purposes, a federal mechanism that in fact assures reasonable comparability between urban and rural rates could reasonably be viewed as "sufficient." Qwest will return to these issues with greater specificity at a later stage of this proceeding.

Finally, although the approach proposed here would (as discussed) require some increases in the total amount of federal high-cost support, it would increase that support only to the extent necessary to fulfill the Commission's statutory duty to achieve reasonable comparability between rural and urban areas. In particular, because the Tier 1 mechanism would set a reasonably high cost benchmark (at least one and a half times the national average) for wire centers in most states, it would provide support only to the highest-cost wire centers accounting for 1.2% to 7.8% of circuit-switched lines served by non-rural carriers, and it would provide additional funding beyond that level only for wire centers in a limited number of states with unusually high costs statewide after Tier 1 funding. In contrast, if the Commission were to retain

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32 *NPRM* at ¶ 16.

33 258 F.3d at 1201 n.8.

the basic approach of the *Ninth Report and Order* but simply lower the benchmark toward 100% of the national average, the size of the fund would greatly increase: to $2.1 billion for the federal portion.[34]

Tier 1 of Qwest's approach would impose a substantially smaller federal obligation, ranging from $469 million (for a multiplier of three and a dollar benchmark of $69.09 per wire center) to $723 million (for a multiplier of 2.5 and a dollar benchmark of $57.58) to $1.2 billion (for a multiplier of two and a dollar benchmark of $46.06) to $2.0 billion (for a multiplier of 1.5 and a dollar benchmark of $34.55). *See* Appendix A at 3. Tier 2 may be even smaller than Tier 1, acting only as a safety net for particularly high-cost states. In the example described above in section II.A of these comments, the total federal obligation for both Tier 1 and Tier 2 funding would be $1.095 billion ($723 million plus $372 million), roughly half of the $2.1 price tag for the modified *Ninth Report and Order* approach just mentioned. *See* Appendix A at 5.

III. The Commission Should Condition Federal High-Cost Support On A State's Willingness To Rebalance Rates And Move Towards A Scheme Of Explicit, Competitively Neutral Funding.

Under the Tenth Circuit's remand order, the Commission may no longer assume that the states will "act on their own to preserve and advance universal service."[35] The court held that, under sections 254(b)(3) and (b)(5), the Commission has not just an opportunity, but an "obligat[ion]," to give the states sufficient "inducement[s]" to do their part to advance universal service.[36] As discussed above, that effectively means conditioning a state's receipt of federal

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34 The Tenth Circuit clearly suggested that the current mechanism -- including the use of the 135% benchmark -- may not allow for reasonable comparability. 258 F.3d at 1198.

35 *Id.* at 1204.

36 *Id.*

funds on the state's compliance with the "reasonable comparability" requirement within its own borders.

The Commission should go further, however, and take this opportunity to condition federal funds not just on a state's achievement of "reasonable comparability," but on its further willingness to achieve that goal *rationally* – *i.e.*, to replace implicit cross-subsidies with explicit, competitively neutral subsidies over a set period of time. As the Commission is well aware, implicit cross-subsidies are ultimately unsustainable in a competitive environment: business customers presented with a choice of carriers, some of whom can offer service at cost, will not willingly pay an incumbent LEC *above-cost* rates to support below-cost rates for residential customers.[37] As competition drives those rates down to cost, this traditional source of implicit funding will evaporate, and the incumbent LEC will begin operating at a loss if it must nonetheless keep serving residential customers at below-cost rates.

Section 254 is designed to avoid precisely that result by requiring a transition from implicit cross-subsidies to explicit, competitively neutral funding mechanisms. At bottom, most customers – business and residential – should be served at rates reasonably approximating cost, and subsidies for the limited number of customers in designated "high-cost" wire centers should be drawn from an explicit fund, not from above-cost business rates subject to the greatest competitive pressures. Rebalancing business and residential rates may raise the rates of most residential customers, but by coupling that rebalancing with explicit subsidies, only those residential customers who actually need subsidies (*i.e.* whose rates are seriously out of line with other residential rates in the state) will get them. That healthy exercise in economic rationality

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37 *Ninth Report and Order* at 20441-42 ¶ 16; *Seventh Report and Order* at 8081-82 ¶ 7.

would in turn reduce the total level of cognizable universal service needs – and thus the total level of required universal service surcharges on retail bills.

Indeed, rebalancing retail rates, and moving from implicit to explicit universal service schemes, are necessary conditions for ensuring a more rational telecommunications world on a variety of levels. For example, as Qwest has elsewhere explained, the persistence of implicit universal service subsidies in intrastate access charges impedes the development of a nationally coherent regime for intercarrier compensation.[38] If left unremedied, above-cost intrastate access charges would lead to massive arbitrage as carriers begin immunizing telecommunications traffic from state-level regulation by routing it through digital networks (such as the Internet) in which the interstate and intrastate components are inseverable and thus subject only to federal regulation.[39] Similarly, unnecessarily subsidized below-cost rates for many suburban residential customers create obvious disincentives for the development of facilities-based competition in suburban areas.[40]

The logic of the Tenth Circuit's ruling provides this Commission with an unprecedented opportunity to give the states appropriate inducements not just to make rates "reasonably comparable," but also to make the transition from irrational, implicit funding mechanisms to the rational, explicit mechanisms required by section 254. Just as the Commission must develop mechanisms to induce adequate state action to fulfill rate comparability goals under subsections

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38 Comments of Qwest Communications International, Inc., *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, filed Aug. 22, 2001, pp. 34-38; Reply Comments of Qwest Communications International, Inc., *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, filed Nov. 5, 2001, pp. 30-34.

39 Order on Remand and Report and Order, *Intercarrier Compensation for ISP Bound Traffic*, 16 FCC Rcd 9151, 9181 ¶ 67 (2001) ("Recip. Comp. Remand Order").

40 *Triennial Review Comments* at 53-54.

254(b)(3) and (b)(5),[41] so too should the Commission adopt mechanisms to induce state compliance with the core objective of subsections 254(b)(4), (e), and (f): a comprehensive transition by the Commission and the states to explicit, competitively neutral universal service programs.[42]

In sum, the Commission should condition a state's receipt of federal funds not just on its adoption of comparable rates, but also on its successful transition over time to an explicit, competitively neutral subsidy scheme, including rate rebalancing and the elimination of implicit subsidies from intrastate access charges. Under this approach, states would gradually lose federal funding if they fail to meet transition deadlines. And, more specifically, they would lose such funding if they use their federal subsidies simply to suppress residential rates as a whole without facing up to the need to rebalance business and residential rates. Again, these inducements are necessary for the very future of universal service because competition will inexorably undermine existing subsidy mechanisms at the state level. As the Commission recognized in embracing analogous reform measures in the *CALLS Order*: "As competition develops, incumbent LECs may be forced to lower their access charges or lose market share, in either case jeopardizing the source of revenue that, in the past, has permitted the incumbent LEC to offer service to other customers, particularly in high-cost areas, at below-cost prices."[43]

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41 258 F.3d at 1204.

42 47 U.S.C. § 254(b)(4) (providers should make equitable and nondiscriminatory contributions to preservation and advancement of universal service); §254(e) (federal universal support "should be explicit and sufficient to achieve the purposes of this section"); § 254(f) (state universal service regulations should not be inconsistent with Commission's duty to preserve and advance universal service and must be "specific, predictable, and sufficient" to support universal service).

43 *See* Sixth Report and Order, *Access Charge Reform*, 15 FCC Rcd 12962, 12972 ¶ 24 (2000), *granted in part, rev'd in part sub nom.* Texas Office of Pub. Util. Counsel v. FCC, 265

It is conceivable that market developments would force the states to make that transition even without federal intervention.[44] It is more likely, however, that states will fail to take timely action, thus requiring the Commission to step in and mandate specific reforms as a condition for federal funding. The Tenth Circuit implicitly rejected the "wait and see" approach to state action in holding that the Commission cannot simply trust the states to "act on their own to preserve and advance universal service."[45] Indeed, a number of states have done very little to fund universal service, much less plan for the creation of new subsidy mechanisms once competition has eroded any existing mechanisms.[46] The Act itself and Commission's universal service orders make clear, however, that "preserving and advancing universal service" in a competitive era requires moving to explicit subsidies sooner rather than later.[47]

CONCLUSION

As discussed above, the Commission should (1) provide federal funding for all *wire centers*, regardless of state boundaries, whose average per-line costs exceed a given dollar benchmark, (2) provide supplemental funding for *states* that have such high statewide average costs that, even taking into account the wire center funding just mentioned, they would lack the internal resources to keep their rates reasonably comparable to those in other states, and (3) condition all federal funding on a state's certification that it has achieved reasonable comparability within its borders and, over time, on the state's progress in producing such

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F.3d 315 (5th Cir. 2001), *petition for cert. filed,* 70 U.S.L.W. 3444 (U.S. Dec. 10, 2001) (No. 01-968) ("CALLS Order").

44 *Ninth Report and Order* at 20465 ¶ 57.

45 258 F.3d at 1204.

46 *See* 47 U.S.C. § 254(e) (federal support must be explicit); *see also Ninth Report and Order* at 20441-42, ¶ 16; *Seventh Report and Order* at 8081-82 ¶ 7.

47 *See* 47 U.S.C. § 254(a)(2).

comparability through explicit, competitively neutral support mechanisms rather than traditional implicit cross-subsidies.

Respectfully submitted,

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April 10, 2002

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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
	)	

Declaration of Byron Watson

1. My name is Byron Watson. I am employed by Qwest as an Advocacy Manager. The purpose of my declaration is to provide additional detail regarding the two-tier funding methodology proposed in Qwest's Comments. In particular, I identify the results of this methodology using various benchmarks.

2. Qualifications. My responsibilities at Qwest include developing, analyzing, and running computer cost models used in regulatory proceedings before the Federal Communications Commission ("FCC" or "Commission") and state regulatory commissions, including the Commission's Synthesis Model. I am also very familiar with the Commission's current methodology used for determining universal service high cost support for non-rural carriers. Prior to joining Qwest in 1996, I was employed by Space Imaging Inc. as a financial Business Development Analyst. My educational background includes a B.S. in Electrical Engineering from Southern Methodist University and an MBA in finance from Emory University. Also of note, I am an expert in several computer tools, including Visual Basic, Access, and Excel – all of which were used for this analysis.

3. Overview of Proposed Methodology. As discussed in Qwest's Comments, Qwest proposes a revised federal funding mechanism with three separate, but related,

components necessary to satisfy the requirements of the Tenth Circuit's decision: (1) federal "Tier 1" support, which would provide federal subsidies for the most costly wire centers in the U.S. served by non-rural carriers, irrespective of state boundaries; (2) federal "Tier 2" support, which would provide additional federal funding to states with unusually high statewide average costs; and (3) the conditioning of Tier 1 and Tier 2 support on a state's certification that it has achieved reasonable comparability within its borders and, over time, on the state's completion of rate rebalancing and the other reform measures required by section 254 of the Act. Obviously the size and distribution of Tier 1 and Tier 2 funding will vary depending on the values of the variables used in the methodology. In the following paragraphs, I identify the results of the Tier 1 and Tier 2 components of the proposed mechanism under various scenarios. For simplicity, these scenarios use fixed, nationwide benchmarks, rather than benchmarks based on step functions, which as described in Qwest's Comments are also possible. All of the scenarios are based on the publicly available cost estimates of the Synthesis Model from the Commission's website.

4. Tier 1 Results. As outlined in Qwest's Comments, Tier 1 of the proposed mechanism would provide federal high cost support for all costs (as estimated by the Synthesis Model) above a particular nationwide benchmark for any wire center whose average cost per line exceeds that benchmark. The following chart summarizes the results of the Tier 1 analysis using four different benchmarks:[1] (a) 1.5 times the national average ($34.55), (b) 2 times the national average ($46.06); (c) 2.5 times the national average ($57.58), and (d) 3 times the national average ($69.09). For each of these

scenarios, the chart identifies the total Tier 1 support generated, the number and percentage of wire centers and lines receiving support, the number of states receiving some amount of Tier 1 support, and the number of states receiving Tier 1 support of at least $1 million. For example, if the benchmark is set to 2.5 times the national average ($57.58), the federal mechanism would provide approximately $723 million in annual Tier 1 support, which would be distributed to 47 states, with 24 states each receiving at least $1 million per year.

National Average Multiplier	**1.5x**	**2x**	**2.5x**	**3x**
Benchmark	$34.55	$46.06	$57.58	$69.09
Total Federal Tier 1 Support	$2.0 billion	$1.2 billion	$723 million	$469 million
Wire Centers Receiving Support	6,394	4,711	3,512	2,632
% of Total Wire Centers	51.90%	38.20%	28.50%	21.40%
Lines Receiving Support	12.6 million	6.1 million	3.3 million	2.0 million
% of Total Lines	7.84%	3.79%	2.05%	1.22%
Holding Companies Supported	89	88	87	84
States Supported	48	48	47	46
States Supported > $1Million	40	33	24	15

5. Tier 2 Results. Tier 2 of the proposed methodology would provide additional support for states whose average costs exceed an "urban benchmark" by a specified percentage,[2] after factoring in Tier 1 support. In effect, Tier 2 funding would ensure that all states could cap rates within their borders at levels that are "reasonably comparable" – however that is defined – to the urban benchmark cost (*e.g.*, rural costs no more than 50% above the urban benchmark).

[1] Note that the nationwide average cost for lines served by non-rural carriers is $23.03, based on the publicly available Synthesis Model results.

[2] A state's "average costs" refer to the average costs for those areas served by non-rural carriers.

6. There are various ways to define an urban benchmark. One reasonable method would be to compute the average cost per line for the lines in areas with density of 650 lines/sq. mi. and higher. I believe this is a reasonable approximation of average urban cost because many cost characteristics change at this density point and begin to reflect urban characteristics. In order to develop an urban benchmark based on the density zone approach, I performed the following steps: First, based on the non-rural density zone results of the Synthesis Model, I computed that 73.08% of the least costly lines served by non-rural carriers are located in urban areas (*i.e.*, areas with density of at least 650 lines/sq. mile). Second, I compiled the wire center results of the model, and sorted them in ascending order of cost. Third, I selected the wire centers that contained 73.08% of all lines. Each of those wire centers has an average monthly per-line cost of \$22.79 or less. Fourth, I calculated the weighted average of those selected wire centers' total monthly per-line costs (for switched lines) to arrive at an urban benchmark. Using this methodology, I computed an urban benchmark of \$18.80.

7. For illustrative purposes, I will provide an example of the interaction between Tier 1 and Tier 2 of the proposed methodology, based on the urban benchmark computed above. Suppose that, for Tier 1, the Commission used a benchmark of 2.5 times the national average (*i.e.*, \$58.57) to compute Tier 1 funding. As described above, such funding would cover the costs above \$58.57 for any wire center with cost exceeding the \$58.57 benchmark. Now, for Tier 2 funding, the Commission would compare each state's average cost (after factoring in Tier 1 subsidies) to the urban benchmark, plus an additional factor representing reasonable comparability. Thus, for example, if the Commission determined that rates are reasonably comparable as long as they are no

greater than 50% of the urban benchmark, the Commission would compare the average cost of each state to 150% of the urban benchmark, or $28.80, taking Tier 1 funding into account. Only if a state's average cost, minus Tier 1 support, exceeds $28.80 would the state qualify for Tier 2 funding. The following chart presents the results of the Tier 2 analysis for various definitions of "reasonable comparability" between 100 and 150%, assuming the scenario described above. For example, if reasonable comparability were set at 150%, the federal mechanism would provide approximately $371 million in Tier 2 support, which would be distributed among 7 states. Each of these scenarios assumes a Tier 1 benchmark of 2.5 times the national average cost. A reduction in Tier 1 support (via a higher benchmark) would increase the size of Tier 2 support.

Benchmark %	**100%**	**120%**	**130%**	**150%**
Benchmark	$18.80	$22.56	$24.44	$28.20
Tier 2 Support	$7.3 billion	$2.5 billion	$1.3 billion	$372 million
States Supported	50	33	23	7

CERTIFICATE OF SERVICE

I, Carole Walsh, do hereby certify that on this 10th day of April, 2002, I have caused true and correct copies of the foregoing Comments of Qwest Communications International, Inc. to be served by hand delivery upon the following parties:

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