

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)

REPLY COMMENTS OF AT&T CORP.

Pursuant to Section 1.415 of the Commission’s Rules, and its Notice of Proposed Rulemaking, FCC 02-41, released February 15, 2002 (“*Notice*”), AT&T Corp. (“AT&T”) submits these reply comments on the methodology for calculating high-cost universal service support for non-rural carriers.

The comments confirm that the Commission should readopt the funding methodology that it adopted in the *Ninth Report and Order*.¹ A number of commenters agree that the Commission should *not* increase the size of the federal fund, and that the current benchmark of 135% of nationwide average cost is “sufficient” to achieve the purposes of the Section 254. *See, e.g.,* Verizon at 7-8 (any further increases in the size of the fund would increase the assessment and make telephone less affordable for all customers); CUSC at 23-25; *see also* GCI at 7. Indeed, the commenters acknowledge that the current methodology preserves universal service (*i.e.*, high subscribership), and that rates under the current methodology are in fact reasonably comparable. *See, e.g.,* Verizon at 4-6; U.S. General Accounting Office, “Federal and State

¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd. 20432 (1999), *remanded sub nom. Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001).

Universal Service Programs and Challenges to Funding,” GAO-02-187 (February 2002) (“*GAO Report*”).²

The two principal alternative methodologies – those proposed by the states of Maine, Montana and Vermont (“Maine”) and by Qwest – would both modify the current system in ways that are not required by the Tenth Circuit, and enlarge the fund to unmanageable levels. First, Maine’s proposal would define “urban” rates as the forward-looking economic cost in all wire centers that have at least 20,000 lines. *See* Maine at 19. Under Maine’s proposed methodology, the federal USF would fund all forward-looking costs above 125% of the nationwide average urban cost. Maine calculates the nationwide average urban cost to be \$18.56, and thus the benchmark would be \$23.20 ($\18.56×1.25). *Id.* at 19-20. As Maine notes (at 20), this methodology would be the equivalent of establishing a 106% benchmark under the Commission’s existing methodology. Under Maine’s proposal, the size of the high-cost fund would increase dramatically.

Such a large increase in the current fund is not necessary, for several reasons. First, Maine’s definition of urban cost is incorrect. As AT&T explained (at 11-12), using costs in “urban” wire centers is inappropriate. The Commission’s methodology should first account for the state’s capacity to establish reasonably comparable rates on its own, without federal help, and therefore the Commission’s methodology should assume that each state will use its resources to equalize rates within the state (either through implicit or explicit subsidies). Thus, the *statewide* average cost would be the appropriate proxy for both urban and rural rates within each state.

² In addition, virtually all commenters agree that the Commission should focus on costs, rather than rates. *See, e.g.*, Qwest at 9-12; Maine at 5-7.

The Commission’s basic approach that the federal fund should be limited to ensuring reasonable comparability between (instead of within) states – which the Tenth Circuit upheld (258 F.3d at 1203-04) and with which virtually all commenters agree – dictates that the statewide average cost is the appropriate proxy for urban rates. Establishing a benchmark against the costs in “urban” wire centers would necessarily increase the size of the federal fund, which means that funding that could be coming from urban ratepayers within a state would necessarily be transferred to the federal fund and, by extension, to net contributors in other states. As the Commission correctly concluded in the *Ninth Report and Order*, such a result would be fundamentally unfair. If a state has the resources within its jurisdiction to establish reasonably comparable rates, it is unfair to shift that burden to ratepayers in other states. *Ninth Report and Order* ¶¶ 45-50. States should first use their own resources to equalize rates in their jurisdictions – thus establishing statewide average cost as the “urban” rate – and the federal fund should provide additional funding only if the state still falls short of reasonable comparability. The Commission’s existing 135% benchmark adequately achieves these objectives.

Equally important, Maine, Vermont, and Montana have not – and cannot – make the case that they need more federal universal service funding. Indeed, Maine and Vermont have two of the highest penetration rates in the entire country – an astonishing 97.7 and 97.2 percent, respectively (and both significantly increased since adoption of the *Ninth Report and Order*). Industry Analysis Division, Common Carrier Bureau, “Telephone Subscribership in the United States,” Tables 2 & 3 (February 2002). Montana has a 94.8 percent penetration rate, which is in line with the national average of 95.1 percent. *Id.* Moreover, as the *GAO Report* demonstrates, urban and rural telephone rates in these states are “reasonably comparable,” both within the state

and compared to other states generally. *See GAO Report* at 15 & Appendix IV; Verizon at 4-6. Therefore, current levels of support are undeniably “sufficient” to preserve universal service (*i.e.*, high levels of subscribership) and to ensure reasonably comparable rates in these states. *See also* Massachusetts DTE at 3-4 (noting that the burden of funding universal service falls on “low-cost” states like Massachusetts, even though “high-cost” states like Vermont and Maine have higher telephone penetration rates than Massachusetts). Indeed, Verizon *opposes* any increase in the federal universal service fund, which indicates that Verizon does not believe it needs additional funding to preserve universal service in Vermont or Maine. *See* Verizon at 1.

Qwest’s proposed alternative is even more misguided. Qwest recommends a “two-tiered” approach to federal universal service funding. In the first tier (Tier 1), the federal USF would provide subsidies for high-cost wire centers throughout the country. Qwest at 14-15. Qwest’s proposal would independently establish a benchmark of 150% of the nationwide average “urban” cost (defined as the average forward-looking cost of wire centers in areas with at least 650 lines per square mile), and Tier 2 funding would fill any gaps between Tier 1 funding and funding all costs above this benchmark (which would be \$28.20). As Qwest explains, the price tag for this scheme would be high: federal high-cost funding for non-rural carriers would more than quadruple to \$1.095 billion. *Id.* at 16.

The Qwest proposal would be an indefensible boondoggle and should be rejected. Indeed, the Tier 1 funding in Qwest’s scheme has nothing to do with reasonably comparable rates. By definition, such funding would overwhelmingly be given to states whose costs are already below Qwest’s proposed benchmark. Rather, the sole purpose and effect of Tier 1 funding is to extend federal funding to almost all of the states, with the express purpose of

creating a means to “induce” the states to enact Qwest’s preferred policy choices for intrastate universal service programs. *See, e.g., id.* at 4 (“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” (emphasis in original)); *see also id.* at 17. In other words, even though most states already have the means to achieve reasonable comparability even as Qwest defines it, Qwest would have the Commission quadruple the federal fund for the sole purpose of creating a means to coerce the states into creating intrastate universal service funds.

Qwest’s proposal is fundamentally flawed for at least two reasons. First, like Maine’s proposal, it would unnecessarily (and unfairly) shift a large portion of the burden of universal service funding to interstate ratepayers at a time when states still have the resources to achieve reasonable comparability within their jurisdictions. Second, as AT&T showed (at 12-13), there is no need at present for a hostile federal takeover of intrastate universal service policies. The states have a long track record of holding up their end of the bargain by providing sufficient universal service funding, and Qwest has not demonstrated that there is any need at this juncture for this Commission to begin aggressively second-guessing the states’ universal service policies or to coerce individual states into “rebalancing” intrastate rates or establishing explicit intrastate universal service funds.³

³ For the same reasons, the Commission should reject SBC’s and BellSouth’s similar (but more vague) proposals to coerce the states to make various changes in their universal service and intrastate pricing policies. If the Commission were to attempt to “induce” states to create intrastate universal service funds, however, it should ensure that there are comparable reductions in implicit subsidies from intrastate access charges.

Finally, the Commission need not attempt to harmonize the funding methodologies for rural and non-rural carriers in this proceeding. The Commission has already established an interim universal service mechanism for rural carriers, and has mandated that the interim plan is to remain in effect for five years. *See* Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, *Federal State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price cap Incumbent Local Exchange carriers and Interexchange Carriers*, 16 FCC Rcd. 11244 (2001). The interim plan should remain in effect for the full five years, and no party has offered any grounds for revisiting that determination.

CONCLUSION

For the foregoing reasons, the Commission should readopt the *Ninth Report and Order* funding methodology.

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April 25, 2002

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April, 2002, I caused true and correct copies of the forgoing Reply Comments of AT&T Corp. to be served on all parties by mailing, postage prepaid to their addresses listed on the attached service list.

Dated: April 25, 2002
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/s/ Peter M. Andros

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