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 THE UNITED STATES TELECOM ASSOCIATION

The United States Telecom Association (USTA), through the undersigned and pursuant to Federal Communications Commission (FCC) Rules 1.415 and 1.419,[1] hereby submits its reply comments in response to comments filed herein pursuant to the FCC's *Further Notice.*[2] USTA filed comments in response to the *Further Notice*.[3] In its comments, USTA pointed out that the contribution methodology for the universal service support mechanisms should: be competitively neutral; provide for the long-term sustainability of universal service support mechanisms; not allow for customer misperceptions as to the shared responsibility for universal service support among telecommunications carriers; not increase administrative burdens; fairly spread the risk resulting from un-collectible charges and assessments; and avoid narrowing the contribution base.

[1] 47 C.F.R. §§ 1.415 and 1.419.
[2] *Federal-State Joint Board on Universal Service*, Further Notice of Proposed Rulemaking and Report and Order, CC Docket No. 96-45, FCC 02-43 (rel. Feb. 26, 2002) (*Further Notice*).
[3] *See* Comments of the United States Telecom Association, filed in CC Docket No. 96-45 on April 22, 2002.

SUMMARY

After reviewing the other filed comments, USTA concludes that a combination of the elements presented in the proposals submitted by SBC Communications Inc.[4] and Home Telephone Company, Inc. *et al.*[5] offers the best approach for securing universal service contributions. Further, USTA believes that the "connections- and capacity-based" proposal offered by the Coalition for Sustainable Universal Service[6] is little more than an interexchange carrier (IXC) protection plan that shifts the IXCs' responsibility for supporting universal service to other interstate carriers.[7] It fails to satisfy the requirement of Section 254(d)[8] that telecommunications providers contribute to universal support mechanisms on an equitable and nondiscriminatory basis, and its adoption would constitute an egregious violation of the principle of competitive neutrality.[9] As such, the CoSUS proposal should be rejected as a non-conforming universal service contribution methodology.

USTA supports a universal service contribution methodology that is based on a flat, per-connection assessment. IXCs should continue to fairly contribute to the support of universal service and, like other interstate telecommunications providers, should be assessed a per connection charge. Interstate telecommunications providers receiving revenues from non-

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[4] *See* Comments of SBC Communications Inc. (SBC Comments), filed in CC Docket No. 96-45 on April 22, 2002.
[5] *See* Joint Comments of Home Telephone Company, Inc., Bluffton Telephone Company, Inc., Hargray Telephone Company, Inc., Chesnee Telephone Company, Chester Telephone Company, Lockhart Telephone Company, Inc., Ridgeway Telephone Company, Inc., Farmers Telephone Cooperative, Inc., PBT Telecom, Inc., Piedmont Rural Telephone Cooperative, Inc., Sandhill Telephone Cooperative, Inc., Sandwich Isles Communications, Inc., and Yukon Telephone Company, Inc. (Joint ILEC Comments), filed in CC Docket No. 96-45 on April 22, 2002.
[6] *See* Comments of the Coalition for Sustainable Universal Service (CoSUS Comments), filed in CC Docket No. 96-45 on April 22, 2002.
[7] "Under this proposed formula, when a carrier does not provide the direct connection to the customer, but is connected to customers through an intervening common or private carrier [such as an IXC that secures switched access from a local exchange carrier (LEC)], only the carrier providing the direct retail customer connection and not the transiting carrier would pay the contribution." CoSUS Comments at 10.
[8] 47 U.S.C. § 254(d).
[9] *See In re Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8801 (1997) (*First Report and Order*).

presubscribed customers should contribute on a revenue basis. The contribution bases should be broadened for all purposes funded by the universal mechanism. Broadband service providers, whether considered information service providers or telecommunications service providers, should be included as supporters of universal service, and all broadband service providers should be assessed in a similar manner. There should be parity in the contribution methodology applied to all telecommunications providers.

The Schools and Libraries (S&L) and Rural Health Care (RHC) programs should be supported by a separate fund with a separate funding base. The funding base should be broader than the existing base and should include Internet service providers (ISPs), cable modem service providers and all other broadband service providers. Ultimately, the S&L and RHC programs should be funded from tax revenues rather than from assessments on the telecommunications industry. Accordingly, and as discussed below, USTA largely supports the connections proposal presented in the SBC Comments (Joint Proposal).[10] USTA's support for the connections-based Joint Proposal is qualified by its support for the bifurcation of the contribution mechanism into a mechanism for the S&L and RHC programs and a separate mechanism for all other universal service programs.[11] The responsibility to ensure that schools, libraries and rural health care providers have access to telecommunications, internet access and internal connections is a national responsibility and should not solely be the responsibility of the telecommunications industry. Accordingly, support for these programs should eventually come from general tax revenues.

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[10] *See* SBC Comments, Appendix A – Universal Service Fund Allocation Mechanism. As stated at page 5 of the SBC Comments, the proposal was developed jointly by SBC and BellSouth.

[11] The Joint ILECs propose a bifurcation of the universal service fund for collection purposes. The bifurcation that they propose is different from that proposed by USTA. In the Joint ILEC proposal, a Network Connection Charge (NCC – a flat fee connection charge) would be assessed "for each local connection and for each toll connection." Joint ILEC Comments at 10. "The remaining USF should continue to be collect[ed] based on interstate revenues." Joint ILEC Comments at 11.

DISCUSSION

The Joint Proposal goes a very long way in addressing the goals set forth by the FCC in the *Further Notice* that reform of the current assessment system "ensure the stability and sufficiency of the universal service fund as the marketplace continues to evolve."[12] It also is faithful to the requirement found in Section 254(d) that contributions to support universal service be on an equitable and nondiscriminatory basis. Below, USTA identifies those portions of the Joint Proposal that it supports and those portions where it would suggest modifications. For the most part, USTA concurs in the Joint Proposal. USTA believes that SBC and BellSouth have brought forward a workable proposal that provides a sound framework for a connections-based plan that accommodates the changes that have recently occurred in the telecommunications marketplace and is consistent with Section 254 of the Telecommunications Act of 1996. USTA strongly encourages the FCC to use the Joint Proposal, with the changes suggested by USTA, as the basis for proceeding forward with its reform of the current USF contribution mechanism.

Below are USTA's section-by-section comments on the Joint Proposal.

> **All providers of telecommunications, including common carriers, private service providers, Internet Service Providers (ISPs) and other content providers, regardless of technology platform or facilities ownership, should contribute to the federal universal service funding mechanism based upon their *interstate telecommunications activities*.**[13]

USTA concurs with the points contained in this section. It is clear that significant value is secured by ISPs by virtue of having access to telecommunications services or telecommunications that allow their retail customers to gain access to their Internet services.

[12] *Further Notice* at ¶ 15.

[13] The Commission should determine that ISPs should not be treated as end users for universal service funding purposes. ISPs should be allocated a portion of the federal universal service funding obligation.

Therefore, ISPs should contribute to the support of all universal service mechanisms in the same manner and to the same degree as telecommunications providers.

Should the FCC disagree and conclude that ISPs should not be required to contribute to universal service like telecommunications providers, the FCC should find that ISP contributions to a separate universal service support mechanism for the S&L and RHC programs are in the public interest. As stated above, USTA supports the bifurcation of universal service into a support mechanism for the S&L and RHC programs and a separate support mechanism for all other programs. An examination of the services supported by the S&L and RHC programs evidence that these programs are different in kind from the other universal service support mechanisms. ISPs are direct beneficiaries of the S&L and RHC programs since qualifying schools, libraries and rural health care providers receive subsidies for ISPs services that they purchase. Accordingly, equity dictates that ISPs should be required to contribute, at a minimum, to a separate S&L and RHC universal service support mechanism.

Interstate telecommunications activity occurs when a service provider sells telecommunications services or services that incorporate a telecommunication component to end users for the transmission (in either direction) of interstate communications. These services will be referred to as *qualifying services*.

USTA concurs with the points contained in this section.

When an end user purchases a qualifying service from a service provider, a retail relationship is established which gives the end user the right to connect to, and utilize the provider's network. A Qualifying Service Connection (QSC) is the term that will be used to identify qualifying services provided through these retail relationships. The quantity of QSCs a service provider establishes is a good indication of the service provider's success in the marketplace and the service provider's overall level of interstate telecommunications activity. Therefore, QSCs should serve as the foundation for allocating the federal universal service funding obligation.

USTA concurs with the points contained in this section.

An interstate transmission requires a connection so the end user can gain access to the network and utilize interstate transport. The access component and the interstate transport component may be provided through a variety of service architectures.

A service provider may offer an interstate transmission service using a seamless network that fully integrates the access and interstate transport components, e.g., a mobile wireless service provider.

An integrated solution can also be accomplished by a provider that bundles one carrier's access service with its (or another carrier's) interstate transport service to provide the end user with a single service capable of interstate transmission. For example, an ISP that offers broadband Internet access service[14] may be bundling a broadband capable access component, e.g., ILEC provided DSL, with self-provisioned interstate packet switched transport associated with the public Internet.

In other service architectures an end user may purchase the access component and the interstate transport component separately from more than one service provider. This latter architecture is typical of a traditional long distance service in which a LEC provides the access component and an IXC provides the interstate transport component.[15]

USTA concurs with the points contained in this section. The following examples illustrate how USTA understands the operation of this section. An end-user customer receiving service from a service provider with a seamless network that provides the end-user's local, DSL,[16] long distance and Internet services would be assessed four units, one for each retail service received from the service provider. An end-user that secures local and long distance services from the same service provider and Internet access and Internet services from another service provider (that may be reselling broadband telecommunications from an unaffiliated service provider) would also be assessed four units, one for each retail service received from the two different service providers. Finally, if the end-user receives

[14] See Section 231(e)(4) for a definition of Internet access service.
[15] As ILECs become eligible to offer interstate long distance service and as IXCs enter the local service market the access component and the interstate transport component will be offered by a single carrier through bundling or network integration.
[16] It is possible that the speed of the DSL service could result in an assessment for that service of more than one unit depending on how the units are assigned to particular high-speed services.

each of the four different services from four different service providers, the end-user would still be assessed four units – one from each service provider.

When the access component and the interstate transport components are provided separately, they will be labeled as an Access QSC and an Interstate Transport QSC, respectively. The federal universal service funding mechanism should operate in a uniform manner to ensure competitive and technological neutrality such that no service architecture unfairly benefits from a particular technology platform or from the rules under which a provider has been required to operate. Uniformity should be accomplished by assigning an Access QSC and an Interstate Transport QSC to those services architectures described above that integrate or bundle an interstate access component with the interstate transport component. For example, an Access QSC and an Interstate Transport QSC will apply to wireless mobile service that has interstate transmission capability. A broadband Internet access service that connects an end user to the Internet through a packet-switched network will also have an Access QSC and an Interstate Transport QSC assigned to it.

USTA concurs with the points contained in this section.

Most qualifying services are sold to end users based on the bandwidth capacity of the service. Service price typically increases as bandwidth increases. Therefore, capacity should be used as an additional indicator of telecommunications activity. Higher bandwidth services should receive a larger allocation of the federal universal service funding obligation because they represent more interstate telecommunications activity than lower bandwidth services. Capacity units will be assigned to Access QSCs and to Interstate QSCs based on the maximum bandwidth of the service provided to the end user. Capacity units will increase as the bandwidth available to an end user increases regardless of technology platform and separate capacity units will apply for connections to circuit switched networks and packet switched networks.

USTA concurs with the points contained in this section. In the Joint Proposal, SBC and BellSouth assign "capacity units" to various services. USTA acknowledges that the assignments made by SBC and BellSouth are one possible way in which to assign capacity units. USTA neither supports nor opposes the assignments offered by SBC and BellSouth at this time. While taking no position on the assignments proposed by SBC and BellSouth, it is important to emphasize that whether one agrees or disagrees with the proposed assignments of SBC and BellSouth, the Joint Proposal taken as a whole is far more equitable and nondiscriminatory than

that offered by CoSUS. No recognition is given in the CoSUS proposal for the interstate retail relationship that an IXC has with its end-user customers where the IXC is the end-user's presubscribed IXC.

End user interstate telecommunications service revenues will be used to define a service provider's level of interstate telecommunications activity associated with QSCs that are provided to end users on an occasional use basis. Calling card services and dial-around long distance services are examples of occasional use QSCs.

USTA concurs with the points made in this section. USTA believes that the reference to "Calling card services" is to prepaid calling cards and not calling cards from a carrier with which the customer has an ongoing relationship.

A service provider that sells a qualifying service to an end user will be allocated a portion of the federal universal service funding obligation as follows:

Allocation for qualifying services provided on an occasional use basis will be determined by applying a percentage-based contribution factor to end user interstate telecommunications service revenues – the current contribution factor of 7.280% could serve as a reasonable starting point for the new occasional use contribution factor

Allocation for Access QSCs and Interstate Transport QSCs will be determined by multiplying the number of capacity units by the contribution factor. The contribution factor is determined by dividing the residual funding requirement, after accounting for funding contributions attributable to qualifying services provided on an occasional use basis, by the total capacity units.

USTA concurs with the points made in this section

The following exceptions apply:

QSCs associated with Lifeline service will not be reported

De minimis interstate telecommunications activity will be based upon the overall revenue value of the funding obligation

USTA concurs with the points made in this section.

USTA supports the Joint Proposal of SBC and BellSouth with the modifications proposed herein. USTA opposes the plan presented by CoSUS as it does not satisfy the competitive neutrality requirements of Section 254(d).

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

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CERTIFICATE OF SERVICE

I, Meena Joshi, do certify that on May 13, 2002, Comments Of The United States Telecom Association was either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the attached service list.

/s/Meena Joshi
Meena Joshi