

**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 |) | |
| |) | |

**COMMENTS OF
CTIA-THE WIRELESS ASSOCIATION™**

Michael Altschul
Senior Vice President, General Counsel

Diane Cornell
Vice President, Regulatory Policy

Paul Garnett
Director, Regulatory Policy

CTIA-The Wireless Association™
1400 16th Street, N.W.
Suite 600
Washington, D.C. 20036
(202) 785-0081

Dated: August 6, 2004

SUMMARY

The telecommunications industry is currently undergoing a sea change, reflecting the Congressional intent of the 1996 Telecommunications Act and the pro-competition policies of the Federal Communications Commission (“FCC” or “Commission”). What was once an industry characterized by little or no choice for consumers now provides an array of competitive alternatives for new and innovative service offerings. Consumers in both rural and urban areas increasingly have access to both wireline and wireless service offerings, including bundles of previously distinct products and services – all provided over both traditional and advanced network platforms. Commercial Mobile Radio Service (“CMRS”) carriers have been a critical part of this equation – bringing sustainable, facilities-based competition to both rural and urban areas. Consumers – the intended beneficiaries of universal service – benefit immensely from these competitive alternatives.

Unfortunately, the Commission’s high-cost universal service mechanisms appear increasingly out of step with changes occurring in the marketplace. Despite industry-wide efficiency gains, advances in technology, and amortization of depreciated equipment, the high-cost mechanisms continue to increase rather than decrease in size over time. Certain parties in this proceeding seek to continue growing the universal service fund for incumbent local exchange carriers (“LECs”), while discriminating against wireless and other competitors in their access to universal service support. In this proceeding, the FCC must honor Congressional intent and not give shelter to these discriminatory and wasteful proposals. Instead, the Commission should adopt nondiscriminatory policies that achieve the twin goals of facilitating sustainable facilities-

based competition and ensuring that consumers in rural and high-cost areas have universal, affordable access to high-quality services.

At the same time, the Commission must ensure that universal service support is no more than necessary to achieve these goals. This can best be achieved through an examination of the Commission's underlying universal service mechanisms, not by simply taking support away from competitors who have brought such tangible benefits to consumers. Whatever changes are made to the underlying mechanisms, the Commission must ensure that universal service support continues to be distributed in both a competitively- and technologically-neutral manner, as required by the Act. That way, the market, and not local or federal regulators, will determine who competes for and delivers services to consumers.

CTIA supports commonsense, nondiscriminatory changes to the existing high-cost universal service mechanisms. CTIA supports the establishment of voluntary eligible telecommunications carrier ("ETC") designation guidelines, provided they do not include requirements that are not appropriate for the competitive CMRS marketplace. CTIA opposes the inclusion of "dominant carrier" requirements, such as equal access, rate regulation, inflexible build-out requirements, and overly broad quality of service requirements, on non-dominant competitors through the ETC designation process. CTIA urges the Commission to reject the Federal-State Joint Board on Universal Service's ("Joint Board's") discriminatory "primary line" proposals, which are nothing more than shortsighted attempts to limit competition and consumer choice while leaving incumbent LECs largely whole. CTIA supports, however, the Rural Task Force's recommendation that the Commission freeze per-line high-cost support available in a service area upon

competitive ETC designation as a more commonsense, nondiscriminatory way of curbing growth in the high-cost fund. Finally, CTIA urges the Commission to consider more fundamental reforms to the underlying universal service mechanisms that accommodate the Act's competition and universal service goals.

TABLE OF CONTENTS

| | <u>Page</u> |
|---|-------------|
| I. Wireless Eligible Telecommunications Carriers Provide Vital Benefits to Rural Consumers..... | 2 |
| II. The Communications Act Requires Competitively- and Technologically-Neutral Distribution of Universal Service Funds..... | 5 |
| III. Wireless ETCs Only Receive a Small Portion of High-Cost Support..... | 6 |
| IV. CTIA Supports Competitively- and Technologically-Neutral ETC Designation Guidelines..... | 8 |
| A. Consideration of ETC Petitions Must Not Be Held Up By This Proceeding..... | 8 |
| B. Voluntary Guidelines Could Aid States in Evaluating Whether an ETC Designation is in the Public Interest..... | 9 |
| C. The FCC Should Reject Proposals to Include Dominant Carrier Requirements in ETC Designation Guidelines..... | 11 |
| D. The FCC and States Should Not Adopt Limits on the Number of Competitive ETCs..... | 12 |
| E. Competitive ETCs Should Immediately Begin Receiving Support Upon Designation..... | 13 |
| V. The Joint Board’s Discriminatory “Primary Line” Proposals Are Unlawful and Unworkable..... | 14 |
| A. The Joint Board’s Proposals Would Unlawfully Discriminate Against Competitive ETCs..... | 14 |
| B. The Joint Board’s Primary Line Proposals Present Insurmountable Administrative Issues..... | 18 |
| VI. Better Alternatives Exist to Curb Growth of the High-Cost Fund..... | 22 |
| A. The FCC Should Freeze Per-Line Support Upon Competitive ETC Designation..... | 22 |
| B. Several Other Competitively-Neutral Proposals to Reduce the Size of the Fund Are Currently Before the Commission..... | 23 |

**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 |) | |
| |) | |

**COMMENTS OF
CTIA-THE WIRELESS ASSOCIATION™**

CTIA-The Wireless Association™ (“CTIA”)¹ submits these comments in response to the Federal Communications Commission’s request for comment on the Commission’s rules relating to the designation of competitive eligible telecommunications carriers (“ETCs”) and the calculation and distribution of high-cost universal service support in areas with multiple ETCs.² CTIA supports the goals of curbing growth in the size of the universal service fund. This can best be achieved through an examination of the Commission’s underlying universal service mechanisms. Whatever changes are made to the underlying mechanisms, the Commission must ensure that universal service support continues to be distributed in both a competitively- and technologically-neutral manner, as required by the Act.

¹ CTIA is the international organization of the wireless communications industry for wireless carriers, manufacturers, and applications providers. Membership in the association covers all Commercial Mobile Radio Service providers and manufacturers, including cellular, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

² See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, 19 FCC Rcd 10805 (2004) (*ETC NPRM*).

I. WIRELESS ELIGIBLE TELECOMMUNICATIONS CARRIERS PROVIDE VITAL BENEFITS TO RURAL CONSUMERS

CMRS providers are the only competitive providers of high-quality, affordable, and facilities-based telecommunications services throughout rural America. In no other sector of the communications industry has competition and innovation produced greater consumer benefits, especially in rural markets. Most consumers in rural areas have access to multiple mobile wireless providers offering an array of services. Currently, 98% of consumers have access to at least 3 wireless providers and 83% have a choice of five or more providers. Except for a single isolated borough (county) in Alaska, there is mobile wireless service in every county in America.

Wireless deployment in rural areas has occurred, in part, because of competitively neutral access to high-cost and low-income universal service support. Western Wireless, for example, is reported to be spending five times as much capital and is building nine times as many cell sites in North and South Dakota, where it has been designated an ETC, than in Montana, where it has not been designated.³ According to Western Wireless, access to high-cost universal service funds can make the difference between negative and positive return on investment.⁴

In some cases, wireless ETCs have brought universal service to rural and insular areas that traditionally have been underserved or unserved by incumbent LECs. The Commission has recognized, for example, that certain regions of the country, such as Appalachia, the Mississippi Delta, and Tribal Areas, have lower telephone penetration

³ See Dan Daly, *Call for improvement, Sparsely populated areas could attain more much-needed cell service*, RAPID CITY JOURNAL (Jul. 6, 2004).

⁴ *Id.*

rates than other regions in the country and that the wireless industry can be a key player in deploying services to these areas.⁵ States, such as North Dakota, have reached the same conclusion, and have implemented initiatives to expand wireless services in rural areas.⁶ There are numerous examples of wireless ETCs using high-cost support to deploy services to underserved or unserved rural areas:

- Centennial is bringing mobile wireless services to communities, such as Shaw and Blackhawk, Louisiana, that currently have no telephone service at all, wireline or wireless.⁷
- Since June 2001, Smith Bagley, Inc. (“SBI”) has signed up over 28,000 people on Native American lands in Arizona and New Mexico.⁸ Of those 28,000, “roughly 76%, or 21,000, did not have telephone service of any kind” before they signed up for SBI’s VisionOne service.⁹
- Western Wireless has brought service to residents of the Reese River Valley and Antelope Valley in rural Nevada that previously did not have access to *any* local

⁵ See Consumer & Governmental Affairs Bureau Reports on Status of “Lands of Opportunity: Building Rural Connectivity,” FCC Press Release (rel. Jul. 8, 2004). The Commission currently is part of a Joint Federal Rural Wireless Outreach Initiative, which is a partnership between the Wireless Telecommunications Bureau, the USDA Rural Utilities Service and private industry to coordinate activities and essential information on programs, financial and other assistance regarding telecommunications opportunities for rural communities. The objective of this initiative is to encourage greater access and deployment of wireless services to enhance economic development throughout rural America. See <http://wireless.fcc.gov/outreach/ruralinitiative/>.

⁶ See *North Dakota PSC Launches Initiative to Expand Wireless Service in Rural Areas*, TR DAILY, July 27, 2004. See also News Release Available at [HTTP://PC6.PSC.STATE.ND.US/MEDIA/NEWS-RELEASES/WIRELESS-INITIATIVE-7-26-04.PDF](http://PC6.PSC.STATE.ND.US/MEDIA/NEWS-RELEASES/WIRELESS-INITIATIVE-7-26-04.PDF).

⁷ See Centennial Lafayette Communications, LLC; Centennial Beauregard Cellular, LLC; Centennial Hammond Cellular, LLC; Centennial Caldwell Cellular Corp.; Centennial Morehouse Cellular, LLC, Docket No. U-27174, In re: Application for designation as an [ETC] pursuant to Section 214(e)(6) of the Communications Act of 1934 for the purposes of receiving federal universal service support in Louisiana (on reconsideration), Order No. U-27174 (issued May 12, 2004). Centennial currently has a petition pending at the Commission requesting waiver of Commission rules that delay receipt of high-cost support by newly designated competitive ETCs. See *Petition filed by Centennial Lafayette Communications, LLC, et al.*, CC Docket No. 96-45 (filed May 28, 2004).

⁸ See Smith Bagley, Inc. Comments in CC Docket No. 96-45, at 4 (filed May 5, 2003).

⁹ *Id.*

telephone service.¹⁰ On the Pine Ridge Indian Reservation in South Dakota, Western Wireless's competitive universal service offering has made telephone service available to many tribal members for the first time, resulting in telephone penetration rates increasing from approximately 25% to over 75%.

- Saipancell will be deploying services to customers in the Northern Marianas Islands that currently do not have access to the public switched network through the incumbent telephone company.¹¹
- Cellular South serves 380,000 square miles of rural territory in Mississippi and is using high-cost support to significantly expand its network capacity.¹²
- N.E. Colorado Cellular, Inc., has used high-cost support to accelerate its upgrade to digital technology in rural northeast Colorado.¹³

Unfortunately, deployment of wireless services in rural markets is more costly on a per-customer basis than serving a more densely populated area. As with wireline networks, factors such as lower population densities, topography, and geographic isolation, make the average cost of providing mobile wireless services in rural areas significantly higher than in urban areas. To aid continued deployment in rural areas of the national and regional calling plans and innovative services that mobile wireless customers increasingly demand, the Commission should ensure that competitors continue

¹⁰ See Western Wireless Comments in CC Docket No. 96-45, Attachment F – “Universal Service Profile of Reese River Valley and Antelope Valley, Nevada” (filed Mar 5, 2003) (noting that wireline service “is not available in this “unserved” area of Nevada within Nevada Bell’s service area”); see also RCA-ARC Comments at 15-16 in CC Docket No. 96-45 (filed May 5, 2003) (noting new service offerings provided by Cellular South and N.E. Colorado Cellular through receipt of High-Cost support).

¹¹ *Federal-State Joint Board on Universal Service, Guam Cellular and Paging, Inc. d/b/a Saipancell, Petition for Designation as an Eligible Telecommunications Carrier on the Islands of Saipan, Tinian, and Rota in the Commonwealth of the Northern Marianas Islands*, CC Docket No. 96-45, Order, DA 04-2268, at para. 16 (Wireline Comp. Bur. rel. Jul. 23, 2004) (*Guam Cellular Order*).

¹² See Comments of Rural Cellular Association and the Alliance for Rural CMRS Carriers in CC Docket No. 96-45, at 16 (filed May 5, 2003).

¹³ See *id.*

to have competitively neutral access to universal service support through the ETC designation process and support calculations.

II. THE COMMUNICATIONS ACT REQUIRES COMPETITIVELY- AND TECHNOLOGICALLY-NEUTRAL DISTRIBUTION OF UNIVERSAL SERVICE FUNDS

The goal of competitive neutrality in the distribution of universal service funds is not just a worthwhile policy goal. It is required by statute. As the Rural Task Force noted during the course of its deliberations, “Section 254(b) and 214(e) of the 1996 Act provide the statutory framework for a system that encourages competition while preserving and advancing universal service.”¹⁴ The Commission noted this statutory mandate in the *First Report and Order*, when it stated that “universal service mechanisms and rules” should “neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology or another.”¹⁵ This concept was also reiterated in the *Ninth Report and Order*, when the Commission stated that “the same amount of support . . . received by an incumbent LEC should be fully portable to competitive providers.”¹⁶

The Courts also have ruled in support of nondiscrimination in the universal service context. In *Alenco Communications, Inc. v. FCC*, the United States Court of Appeals for the Fifth Circuit stated that the universal service “program must treat all

¹⁴ Rural Task Force, White Paper 5: Competition and Universal Service, at 8 (rel. Sept. 2000) (available at <http://www.wutc.wa.gov/rtf>) (hereinafter “White Paper 5”).

¹⁵ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8801 (1997) (*First Report and Order*).

¹⁶ See *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, 20479 (1999) (*Ninth Report and Order*).

market participants equally – for example, subsidies must be portable – so that the market, and not local or federal regulators, determines who shall compete for and deliver services to customers.”¹⁷ As the Fifth Circuit noted, the principle of competitive neutrality “is made necessary not only by the realities of competitive markets but also by statute.”¹⁸

III. WIRELESS ETCs ONLY RECEIVE A SMALL PORTION OF HIGH-COST SUPPORT

Achieving universal service fund cost reductions solely by reducing high-cost support available to competitors is not only legally suspect, but it is also misplaced. Incumbent LECs, not CMRS providers, continue to receive the lion’s share of high-cost universal service subsidies. According to Universal Service Administrative Company (“USAC”) statistics, CMRS providers received less than \$1.5 million in high-cost support in 2000.¹⁹ Incumbent LECs, however, received over \$2.2 billion during this period.²⁰ By 2003, high-cost support for incumbent LECs had ballooned to over \$3.1 billion, with CMRS providers only receiving approximately \$126 million in high-cost support that year.²¹ In the third quarter of this year, all competitive ETCs, including wireless and wireline carriers, are projected to receive approximately \$64 million in high-cost

¹⁷ 201 F.3d at 616.

¹⁸ *Id.*

¹⁹ *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 19 FCC Rcd 4257, 4285, at para. 67 n.183 (Jt. Bd. 2004) (*Recommended Decision*).

²⁰ Universal Service Administrative Company, 2000 Annual Report, at 30, available at <http://www.universalservice.org/Reports/>.

²¹ Universal Service Administrative Company, 2003 Annual Report, at 26, available at <http://www.universalservice.org/Reports/>.

universal service support, while incumbent LECs are projected to receive approximately \$808 million in high-cost universal service support.²²

In spite of alarmist rhetoric about growth in support going to competitive ETCs, the reality is that incumbent LECs continue to receive approximately 93% of high-cost funding. These statistics reveal that the vast majority of growth in the high-cost fund is the result of increased support for incumbent LECs. *In fact, from 2000 through 2003 incumbent LECs were responsible for over 90% of growth in the high-cost fund.*²³

During this period, incumbent LECs received approximately \$55.73 for every \$1.00 of support received by competitive ETCs.²⁴

Therefore, instead of pursuing misguided proposals that would distort the marketplace by reducing competitor access to universal service subsidies -- while at the same time not significantly reducing the overall size of the fund -- the FCC should fundamentally examine the basis of its high-cost support mechanisms in a competitively neutral manner. As discussed in section VI.B. below, modest changes to the underlying high-cost mechanisms could reap significant fund size reductions, and more fundamental reforms could reap even greater cost reductions. These proposals would result in reduced

²² See Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter of 2004, at Appendix HC01 (filed Apr. 30, 2004). Given that it can take many months (if not years) for a competitor to obtain its ETC designation and begin receiving support, CTIA's analysis rightly excludes those competitors listed on USAC's charts that have ETC petitions still pending or are otherwise not yet eligible to receive support by operation of the time lags in the Commission's line count reporting rules. Including this support would inappropriately exaggerate competitive ETC support.

²³ See Universal Service Administrative Company, 2003 Annual Report, at 26, available at <http://www.universalservice.org/Reports/>; Universal Service Administrative Company, 2000 Annual Report, at 30, available at <http://www.universalservice.org/Reports/>.

²⁴ Based on USAC data available at <http://www.universalservice.org/hc/whatsnew/072004.asp> (visited 7/30/04) (Approximately \$11.18 billion for incumbent LECs versus \$200.6 million for competitive ETCs).

support for both incumbent LECs and ETC competitors and would lead to more equitable targeting of support to incumbent LEC service areas with higher average costs. This NPRM, along with a recently referred proceeding on rural high-cost support, provides the Commission and the Joint Board an opportunity to address such proposals.²⁵

IV. CTIA SUPPORTS COMPETITIVELY- AND TECHNOLOGICALLY- NEUTRAL ETC DESIGNATION GUIDELINES

A. Consideration of ETC Petitions Must Not Be Held Up By This Proceeding

Unfortunately, competitive carriers have often had to endure an extraordinarily long – and resource intensive – process when seeking ETC designations at the FCC and in many states. The FCC (and certain states) can and should process grants of ETC designations more rapidly than in the past, now that precedent guiding these designations is clearer. Sitting on these petitions deprives rural consumers the benefits of competitive choice. In the case of underserved or unserved areas, each day of inaction may mean an additional day that deprives consumers of any choice of service providers. Now that the FCC has established public interest guidelines for ETC designations, it should expeditiously address the long list of pending petitions. One of these petitions has been pending at the Commission for over two years.²⁶ As the Commission itself has found, there is no valid reason to await the outcome of this proceeding prior to addressing these petitions.²⁷

²⁵ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 04-125 (rel. Jun. 28, 2004) (*High-Cost Referral Order*).

²⁶ See *Smith Bagley, Inc., Petition for Designation as an Eligible Telecommunications Carrier for the Navajo Reservation in Utah*, CC Docket No. 96-45 (filed May 24, 2002).

²⁷ See, e.g., *Federal-State Joint Board, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket 96-45,

B. Voluntary Guidelines Could Aid States in Evaluating Whether an ETC Designation is in the Public Interest

With certain exceptions, states generally are doing a good job of determining whether wireless ETC designations are consistent with the public interest. Some states, however, could benefit from and would welcome Commission guidance on the appropriate public interest analysis to apply to ETC designation proceedings.

The Commission, therefore, should adopt voluntary ETC designation guidelines, provided they are no more stringent than those detailed in the FCC's *Virginia Cellular Order* and *Highland Cellular Order*.²⁸ CTIA does not agree with every aspect of those orders.²⁹ However, CTIA recognizes that the Commission's public interest guidelines represent a balancing of consumer, competitor, and incumbent carrier interests. CTIA therefore supports application of the Commission's public interest analysis for ETC designations to voluntary guidelines for FCC and state commission consideration of ETC petitions.

The Commission also should clarify the scope of its public interest analysis as applied to petitions for ETC designation in non-rural incumbent LEC wire centers.

Memorandum Opinion and Order, 19 FCC Rcd 1563, 1574, para. 25 (2004) (*Virginia Cellular Order*); see also *Guam Cellular Order*, DA 04-2268, at para. 17.

²⁸ See *Virginia Cellular Order*, 19 FCC Rcd at 1565, 1575-76, 1584-85, paras. 4, 27, 28, 46; see also *Federal-State Joint Board, Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket 96-45, Memorandum Opinion and Order, 19 FCC Rcd 6422, 6438, para. 33 (2004) (*Highland Cellular Order*).

²⁹ For example, because section 54.315 of the Commission's rules provides rural telephone companies ample opportunities to target support to only the highest-cost lowest-density portions of a study area, CTIA does not believe it is appropriate for the Commission to use "cream skimming" concerns as grounds for denying ETC petitions. See 47 C.F.R. § 54.315. CTIA believes that this policy penalizes CMRS providers when their licensed service areas, which are determined by the Commission, do not happen to follow the contours of rural telephone company study area boundaries.

Section 214(e)(4) and (e)(6) of the Act clearly states that the public interest test applied to requests for ETC designation in *non-rural* incumbent LEC service areas should be less stringent than the test applied to requests for ETC designation in *rural* incumbent LEC service areas.³⁰ The Commission should elaborate on its analysis in the *Virginia Cellular Order* and *Highland Cellular Order* to make clear that petitions for ETC designation in non-rural incumbent LEC service areas are subject to a lower public interest threshold.³¹

Any new ETC designation guidelines should only be applied prospectively. Rescinding or modifying existing wireless ETC designations that do not satisfy new designation guidelines would be extremely disruptive to consumers in rural areas.³²

In establishing voluntary ETC designation guidelines, the FCC should make clear that state jurisdiction to impose public interest obligations on wireless ETCs does not extend to non-ETCs. CTIA is particularly disturbed by state commission proposals to broadly apply to all CMRS providers build-out, reporting, and other requirements imposed in the context of ETC designations. The Commission should make clear that regulatory mandates, that may be appropriate in the context of ETC designations for monopoly providers, should not be extended to competitive CMRS providers.

³⁰ See 47 C.F.R. §§ 214(e)(4), (e)(6).

³¹ See *Virginia Cellular Order*, 19 FCC Rcd at 1575, para. 27; *Highland Cellular Order*, 19 FCC Rcd at 6431-32, para. 21.

³² See *Recommended Decision*, 19 FCC Rcd at 4275, para. 45. At the very least, if the Commission and states should decide to impose new requirements on existing ETCs, they should be given a reasonable period of time to come into compliance with any new reporting obligations, such as those detailed in the *Virginia Cellular* and *Highland Cellular* orders. See *Virginia Cellular Order*, 19 FCC Rcd at 1584-85, para. 46; and *Highland Cellular Order*, 19 FCC Rcd at 6441-42, para. 43 (*i.e.*, becoming a signatory to CTIA's Consumer Code for Wireless Service; and annual reporting of the number of consumer complaints per 1,000 mobile handsets, the deployment of new facilities, and the number of requests for service unfulfilled in past year).

C. The FCC Should Reject Proposals to Include Dominant Carrier Requirements in ETC Designation Guidelines

The FCC should reject proposals to impose “dominant carrier” requirements on non-dominant competitors through the ETC designation process. The FCC, therefore, should reject the Joint Board’s recommendation to require competitive ETCs to provide equal access if all other ETCs in a service area relinquish their designations. Equal access is not a service supported by the Commission’s universal service mechanisms and should not become one in the context of ETC designations. As Congress has determined, it does not make sense for competitive and non-dominant mobile wireless providers to be required to provide equal access or other dominant carrier regulations.³³ Section 332(c)(8) of the Act clearly states that providers of CMRS services “*shall not* be required to provide equal access to common carriers for the provision of telephone toll services.”³⁴

Therefore, the Commission must follow the mandate stated in the first sentence of section 332(c)(8), which clearly states that CMRS providers “shall not be required to provide equal access.”³⁵ As the Commission determined in 1997, this provision does not

³³ Equal access originally was imposed on monopoly wireline local exchange carriers as a market opening requirement to facilitate the development of a competitive long distance market. *See U.S. v. AT&T (the Modification of Final Judgment)*, 552 F. Supp. 131 (D.D.C. 1982). As noted above, Congress determined in 1996 that there was no basis to extend equal access requirements to CMRS carriers. There certainly is no policy purpose to be served by extending equal access to *competitive* ETCs solely to raise rivals’ costs -- and thus the prices paid by consumers. It is axiomatic that the Nation’s competition laws are intended to benefit competition, not competitors.

³⁴ *See* 47 U.S.C. § 332(c)(8). The only possible exception is where the Commission makes a determination “that subscribers to such services are denied access to the provider of telephone toll services of the subscriber’s choice, and that such denial is contrary to the public interest, convenience, and necessity,” in which case the Commission can order unblocked access “through the use of a carrier identification code assigned to such provider or other mechanism.” *Id.* As discussed above, CMRS providers currently have numerous competitive alternatives. This is the case even in situations where there is only one ETC in a service area.

³⁵ *Id.*

provide an exception for CMRS providers that have been designated as ETCs, or for any other purpose.³⁶ In light of the fact that neither statute nor sound principles of statutory construction have changed since 1997, and the telecommunications market is more, not less, competitive than it was then, there is no reason to revisit this determination now.

The Commission also should refrain from imposing other “dominant carrier” requirements on competitive ETCs. As the Joint Board acknowledged, public interest requirements imposed on ETCs “should further the universal service goals contemplated in section 254(b) of the Act, and should not be imposed merely for the sake of regulatory parity.”³⁷ The Commission and states should not regulate up merely to make competitive ETCs as heavily regulated as incumbent carriers. Rather, the Commission and states should only impose those obligations that are necessary to further the goals of universal service.³⁸ The Commission and states, therefore, should not impose unnecessary financial reporting, rate regulation, inflexible build-out requirements, unnecessary quality of service, or other requirements in the context of ETC designations.

D. The FCC and States Should Not Adopt Limits on the Number of Competitive ETCs

The FCC should reject discriminatory proposals to limit the number of competitive ETCs in rural ILEC study areas.³⁹ The level of per-line high-cost support

³⁶ See *First Report & Order*, 12 FCC Rcd at 8819, para. 78.

³⁷ See *Recommended Decision* 19 FCC Rcd at 4270, para. 31, 4271, para. 34.

³⁸ In the long run, the Commission and states could consider whether to relieve incumbent carriers of regulations that may no longer be necessary in a competitive marketplace. See, e.g., *Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services*, CC Docket No. 01-337, Notice of Proposed Rulemaking, 16 FCC Rcd 22745 (2001).

³⁹ See *Recommended Decision*, 19 FCC Rcd at 4274, para. 43.

received by an incumbent LEC is not an appropriate public interest justification for denying ETC designations to competitors in that area. This proposal ultimately would only harm rural consumers by limiting their access to the benefits of competitive choice.

At a time of greater focus on fraud and abuse of the Commission's universal service mechanisms, this proposal would create powerful and perverse incentives for incumbent carriers to inflate their costs in order to deny competitors access to high-cost subsidies. In an increasingly competitive market, it is completely inappropriate for incumbent carriers to be monetarily rewarded for being inefficient. If anything, the presence of an incumbent carrier receiving above a certain level of per-line support should serve as a triggering point for the Commission to more closely scrutinize the incumbent carrier's cost data. The presence of such an inefficient incumbent carrier may also be an indication that wireline technologies may not be the appropriate platform for delivering services to that geographic area – providing one more reason for the Commission to more fundamentally reform the underlying high-cost support mechanisms.

E. Competitive ETCs Should Immediately Begin Receiving Support Upon Designation

CTIA fully supports the Commission's proposal to enable newly designated competitive ETCs to begin receiving high-cost support as of their ETC designation date, provided that required certifications and line-count data are filed within sixty (60) days of the carrier's ETC designation date.⁴⁰ The Commission should apply these rule changes to the long list of entities with petitions for waiver of these delays pending at the FCC.

⁴⁰ See *ETC NPRM*, 19 FCC Rcd at 10805, para. 5.

These rules unnecessarily delay receipt of high-cost support by competitive ETCs and penalize certain competitive ETCs simply by virtue of the date their ETC designation is granted.⁴¹ These administrative delays serve no valid purpose and in some cases further delay deployment of wireless service to underserved and unserved rural consumers.⁴²

V. THE JOINT BOARD’S DISCRIMINATORY “PRIMARY LINE” PROPOSALS ARE UNLAWFUL AND UNWORKABLE

A. The Joint Board’s Proposals Would Unlawfully Discriminate Against Competitive ETCs

Consumers in both rural and non-rural areas benefit from high-quality, competitively priced, and innovative services that result when multiple competitors are in a marketplace. In adopting section 254 of the Act, Congress recognized the importance of providing consumers in high-cost rural areas access to the same types of telecommunications service offerings that are available to consumers in urban areas.⁴³ At the same time, Congress recognized the importance of competition.⁴⁴ As noted by the Fifth Circuit in *Alenco Communications, Inc. v. FCC*, “[t]he FCC must see to it that *both* universal service and local competition are realized; one cannot be sacrificed in favor of

⁴¹ Many carriers also are unaware of USAC’s unwritten policy of accepting line counts prior to ETC designation.

⁴² See, e.g., *Petition filed by Centennial Lafayette Communications, LLC, et al.*, CC Docket No. 96-45 (filed May 28, 2004).

⁴³ See 47 U.S.C. § 254(b)(3).

⁴⁴ See, e.g., 47 U.S.C. §§ 251-253; *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366, 371 (1999); *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 406, 412 (5th Cir. 1999).

the other.”⁴⁵ The Fifth Circuit therefore concluded that “protection from competition” is “the very antithesis of the Act.”⁴⁶

In direct confrontation to the clear dictates of the Act, the Joint Board’s so-called “primary line” proposals are nothing more than attempts slow the growth of sustainable competition in rural areas by drastically reducing support available to competitive ETCs, while shielding incumbent LECs from the impacts of competitive choice. The Joint Board itself acknowledges that its proposals are meant to prevent or mitigate reductions in support available to rural carriers resulting from competitive entry.⁴⁷ The Joint Board’s fixation on maintaining current levels of high-cost support flowing to incumbent carriers disregards the fact that the Act demands “sufficient funding for *customers*, not *providers*.”⁴⁸ To differing degrees, each of these proposals would achieve the Joint Board’s unlawful goal by shifting support away from competitive ETCs, while largely making incumbent carriers whole. None of these proposals would result in any overall loss of revenues (even in the long run) for the vast majority of rural incumbent LECs that are guaranteed profits under rate-of-return regulation.⁴⁹

Under the Joint Board’s first proposed approach, the Commission would restate support in terms of support per *primary line*, instead of support *per line*, “without any

⁴⁵ See *Alenco v. FCC*, 201 F.3d at 616.

⁴⁶ See *id.* at 622.

⁴⁷ See *Recommended Decision*, 19 FCC Rcd at 4289, para. 76.

⁴⁸ See *Alenco v. FCC*, 201 F.3d at 622.

⁴⁹ Any loss of rate-of-return LEC revenues from universal service would be made up from other revenue sources, such as end-user and access rates. Those few rural incumbent LECs that are subject to price caps may experience some revenue reductions under these proposals (unless allowed exogenous adjustments to their rates).

effect on the amount of support received by the rural carrier at the time support is restated.”⁵⁰ *Primary line* support would be greater than *per line* support under the existing high-cost mechanisms in direct relation to the percentage of an incumbent LEC’s lines that are second lines. At the time of the restatement, the incumbent would be made whole, *i.e.*, would receive the same total amount of support it was eligible for prior to the restatement.⁵¹ Because competitive ETCs typically have a smaller percentage of primary lines relative to second lines than incumbents, competitive ETCs would receive less total support than they received prior to the restatement.⁵² The net effect of this proposal would be significant reductions in support for almost all competitive ETCs.

The Joint Board’s second proposed approach effectively would only eliminate support for competitor second lines.⁵³ Under this proposal, incumbent LECs would receive a monthly lump sum payment for an unspecified period of time to offset any loss of support resulting from the transition to a primary line system (*i.e.*, any support previously received for second lines). This proposal includes no provision to offset loss of support for competitors. Because the lump sum would only be available to the incumbent carriers, under such a system, competitors would effectively receive less per-line support than incumbents. The Joint Board, itself, recognized that this proposal may

⁵⁰ See *Recommended Decision*, 19 FCC Rcd at 4288 para. 73.

⁵¹ The incumbent’s support would go down after the restatement only to the extent that it experiences a net loss of primary lines to competitors.

⁵² The only situation in which a competitive ETC would receive the same or more support than under the existing mechanism would be if it had a smaller percentage of second lines than the incumbent.

⁵³ See *id.* at 4288, para. 74.

be inconsistent with the principle of competitive neutrality.⁵⁴ CTIA agrees with this assessment.

Under the third proposal, per line support available to competitive ETCs would freeze upon competitive ETC designation and competitive ETCs would only receive support for customers who designate the competitive ETC's service as the primary line.⁵⁵ In the Joint Board's most interesting twist, incumbent carriers would continue receiving support for both their primary and second lines. Moreover, per-line support for the incumbent would not be capped. Therefore, if the incumbent loses lines to competitors or has increased costs over time, it alone would be eligible for increased support. This is the Joint Board's most discriminatory "primary line" proposal, because the disparities between incumbent LEC support and competitor support would be the greatest. Similar to the second proposal, support for second lines would be available for incumbents, but not competitive ETCs. This proposal also would allow an incumbent's support to grow over time, but not a competitor's. To the extent that an incumbent loses lines to a competitor and its average per-line costs increase (or the incumbent simply has higher costs over time), it alone would be eligible for increased per-line support. In other words, this proposal would result in incumbent LECs receiving significantly more high-cost support than competitive ETCs, even as the incumbent loses lines to its competitors over time.

Contrary to the intent of Congress, the Joint Board's "primary line" proposals would discourage competitive entry in high-cost areas. As the Joint Board recognized,

⁵⁴ *See id.* at 4288, para. 74.

⁵⁵ *See id.* at 4289, para. 75.

but apparently disregarded, making certain categories of support available to incumbents, but not competitive ETCs, would be inconsistent with the principle of competitive neutrality.⁵⁶ As such, the Commission should reject the Joint Board's primary line proposals.

B. The Joint Board's Primary Line Proposals Present Insurmountable Administrative Issues

The administrative burdens associated with effectively managing a primary line system would significantly outweigh its purported benefits. Supporters of primary line restrictions tend to gloss over the significant administrative and procedural issues it raises. In its comments before the Joint Board, NASUCA, for example, stated that administrative burdens simply will "wane" in the face of a primary line system's alleged benefits.⁵⁷ The cold hard truth is that the Commission will need to deal with a long list of complex administrative issues, and even then will find that a primary line system is particularly vulnerable to waste, fraud, and abuse.

Limiting high-cost support to primary lines will first require the Commission to define "primary" lines. If the Commission's experience with defining primary residential lines for purposes of incumbent LECs assessing subscriber line charges ("SLCs") and presubscribed interexchange carrier charges ("PICCs") is any indication, the Commission will find that no satisfactory alternative exists for defining primary lines in the far more complex and demanding universal service context.

⁵⁶ *See id.* at 4286, para. 70 n.193.

⁵⁷ *See* NASUCA Comments in CC Docket No. 96-45 at 6-7 (filed May 5, 2003); NASUCA Reply Comments in CC Docket No. 96-45 at 16-17 (filed June 3, 2003).

In 1999, the Commission adopted a location-based, as opposed to household-based or account-based, definition of primary residential line for purposes of price cap LECs assessing SLCs or PICCs.⁵⁸ The Commission rejected an account-based definition of primary lines, because it would enable customers to set up accounts to avoid purchasing more expensive second lines.⁵⁹ The Commission also rejected a household-based definition due to the “ambiguous and administratively burdensome task of determining which subscribers are part of which households.”⁶⁰ A household-based definition also is subject to the same sorts of manipulation as an account-based definition and would require gathering of invasive information about customer living arrangements.⁶¹

Under Commission’s location-based definition of primary lines, one residential line that a price cap LEC provides to a particular location is considered primary. Any other residential lines a price cap LEC provides to a particular location are considered non-primary residential lines. This definition would not work in the context of a primary line limitation for high-cost universal service support, because it does not account for competitor lines, single- and multi-line business customers, and multiple customer/household locations.

When developing a system for identifying primary lines for price cap LEC SLCs and PICCs, the Commission did not need to address how to identify competitor primary

⁵⁸ See *Defining Primary Lines*, CC Docket No. 97-181, 14 FCC Rcd 4205, 4209-4212 (1999) (*1999 Primary Line Order*).

⁵⁹ See *id.* at 4210, 4214.

⁶⁰ See *id.* at 4210, 4213.

⁶¹ See *id.* at 4213.

lines. Under a primary line universal service system, the Commission would need to address the sticky issue of how to identify primary lines where customers at a given location are also receiving lines from facilities-based competitive LECs or CMRS providers. The Commission would need to develop complicated procedures to avoid double counting of consumers served by multiple ETCs. The Commission previously has acknowledged the difficulty of determining whether an incumbent LEC customer is also receiving lines from non-reselling competitive LECs or CMRS providers.⁶²

To implement a universal service primary line restriction, the Commission also would need to address how to apply a primary line restriction to multi-line businesses.⁶³ The primary line restriction for SLCs only applies to residential lines. In addition, the Commission would need to develop procedures to avoid undercounting the primary lines associated with multiple-customer locations. The Commission also would need to adopt procedures for customers to make their initial primary line selection without favoring the incumbent. For example, CTIA adamantly opposes making the incumbent carrier the default primary line provider.

In addition, the FCC would need to determine how frequently carriers would need to update their primary lines without imposing overly burdensome reporting obligations. If carriers are not required to report frequently enough, a primary line restriction also may not satisfy the “sufficiency” requirement in the Act because it would necessarily undercount and therefore deny support for serving customers that are itinerant. These are

⁶² *See id.* at 4213.

⁶³ *See id.* The Joint Board recommend that the Commission further develop the record on the appropriate treatment of multi-line businesses under its recommended primarily line approach. *See Recommended Decision*, 19 FCC Rcd at 4293, para. 84. For purposes of the “Do Not Call” list, the Commission has deemed *all* CMRS phones to be residential.

the very customers that benefit most from access to services supported by the Commission's universal service mechanisms.

All of these complexities add up to a system that would be exceedingly difficult to monitor and enforce. With the Commission's five high-cost universal service support mechanisms directing support to approximately 1,629 rural and non-rural incumbent LEC study areas, plus approximately 190 competitive ETC service areas, the Universal Service Administrative Company has a difficult enough task of monitoring compliance with the Commission's already complex high-cost mechanisms.⁶⁴ A primary line system would compound that complexity by requiring USAC to monitor the selections of over 100 million households, in addition to the selections of single- and multi-line businesses.⁶⁵ Such a system would invite significantly more waste, fraud, and abuse of the Commission's universal service programs, just as the Commission and USAC are focusing on developing mechanisms to prevent waste, fraud, and abuse in the existing universal service programs.⁶⁶

⁶⁴ See Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter of 2004, at Appendix HC01 (filed Apr. 30, 2004).

⁶⁵ See *Telephone Subscribership in the United States*, Industry Analysis and Technology Division, Wireline Competitive Bureau, Federal Communications Commission, at 6, Table 1 (rel. May 2004).

⁶⁶ See, e.g., *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912 (2003).

VI. BETTER ALTERNATIVES EXIST TO CURB GROWTH OF THE HIGH-COST FUND

A. The FCC Should Freeze Per-Line Support Upon Competitive ETC Designation

CTIA supports nondiscriminatory efforts to curb growth in the high-cost universal service mechanisms. CTIA does not oppose limiting or even reducing per-line support for wireless competitive ETCs as long as incumbent carriers also experience corresponding limitations or reductions in per-line support amounts. To that end, the FCC should adopt the Rural Task Force's proposal to freeze per-line support available in a service area upon competitive ETC designation.⁶⁷ Per-line support amounts should change annually, as measured by inflation.⁶⁸ The cap on per-line support amounts in service areas with competitive ETCs should apply to rural high-cost loop support, local switching support, interstate common line support, and non-rural forward-looking support.⁶⁹ Portable support amounts under all of these mechanisms are a function of average per-line costs.⁷⁰ Freezing per-line support under these mechanisms for both

⁶⁷ See *Federal-State Joint Board on Universal Service*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244, 11293, para. 120 (*Rural Task Force Order*).

⁶⁸ Per-line support should not, as the Rural Task Force originally proposed, also grow by the Rural Growth Factor. See *Recommended Decision*, 19 FCC Rcd at 4291, para. 80. We agree with the Joint Board that this would result in double counting of line growth. To the extent that limiting growth of support result in undue hardship, the Commission could consider waiver requests from carriers.

⁶⁹ See 47 C.F.R. §§ 36.611-36.631, 54.301, 54.303, 54.309. CTIA supports the Rural Task Force's original proposal (with slight modifications), not the Joint Board's proposal to cap support in the context of a primary line limitation. See *Recommended Decision*, 19 FCC Rcd at 4290, paras. 77-78.

⁷⁰ See *Rural Task Force Order*, 16 FCC Rcd at 11295, paras. 124-125.

incumbents and competitors upon competitive ETC designation will ensure that per-line support amounts do not increase to unreasonable and unsustainable levels as customers switch from incumbent to competitive service offerings.

B. Several Other Competitively-Neutral Proposals to Reduce the Size of the Fund Are Currently Before the Commission

The Commission and the Joint Board should also consider proposals to modify the existing high-cost mechanisms, as well as proposals to transition to a new high-cost mechanism for all or some rural carriers. Each of these proposals would entail less per-line support for both incumbents and competitors. Under any changes, nondiscriminatory per-line support should continue to be available to both incumbents and competitors.

In the short term, the Commission and the Joint Board should consider proposals to modify the existing “embedded cost” rural high-cost mechanisms to ensure that support is more fairly distributed. One idea the Commission and the Joint Board could consider is consolidating “study areas” under common ownership in a given state.⁷¹ This idea could be coupled with the longer-term proposal (discussed below) of transitioning larger rural incumbent LECs to the Commission’s forward-looking high-cost mechanism.

As the Commission recently noted, by operating in multiple study areas in a given state, certain carriers receive more high-cost universal service support than they would receive if their study areas within a state were combined.⁷² Study area boundaries are

⁷¹ See *High-Cost Referral Order*, at para. 12. The Commission first proposed this change 14 years ago. See *Amendment of Part 36 of the Commission’s Rules and Establishment of a Joint Board*, CC Docket No. 80-286, Notice of Proposed Rulemaking, 5 FCC Rcd 5974 (1990) (*Study Area NPRM*). In addition, NASUCA proposed this change in its reply comments before the Joint Board in this proceeding. See NASUCA Reply Comments in CC Docket No. 96-45, at 30-31 (filed Jun. 3, 2003).

⁷² See *High-Cost Referral Order*, at para. 12.

important because an incumbent LEC's eligibility for high-cost universal service support is based on its average embedded costs in a given study area.⁷³ The Commission froze all study area boundaries effective November 15, 1984, in order, among other things, to prevent carriers from setting up high-cost exchanges within their existing service territory in a state as separate study areas to maximize eligibility for high-cost universal service support.⁷⁴ By acquiring partial or complete study areas or by virtue of having operated more than one study area in a given state prior to November 15, 1984, numerous carriers currently operate in more than one study area in a given state.⁷⁵ If these carriers were required to combine their study areas to reflect their actual service territory in a given state, they (and their ETC competitors) potentially would qualify for less high-cost loop and local switching support. This change, therefore, could result in significant, quantifiable cost savings. Because the high-cost loop support mechanism is subject to a cap, combining study areas also would result in the redistribution of support to the very rural wireless and wireline carriers with the highest average statewide costs that are most in need of support.

The Commission and the Joint Board also could consider other changes to the existing high-cost mechanisms. For example, the Commission and the Joint Board could consider changes to the local switching support mechanism, which is premised on the

⁷³ A "study area" is a geographic segment of an incumbent LEC's telephone operations and generally corresponds to an incumbent LEC's entire service territory within a state. *See Study Area NPRM*, at para. 4.

⁷⁴ *See MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72, 80-286, Recommended Decision and Order, 49 Fed. Reg. 48325 (1984); Decision and Order, 50 Fed. Reg. 939 (1985).

⁷⁵ CenturyTel, for example, operates in 18 study areas in Wisconsin. *See Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter of 2004*, at Appendix HC01 (filed Apr. 30, 2004).

idea that smaller carriers have higher average switching costs.⁷⁶ Local switching support currently targets support to any incumbent LEC study area with fewer than 50,000 access lines without regard to whether the incumbent LEC actually has high switching costs.⁷⁷ One idea would be to consider requiring incumbent LECs with less than 50,000 access lines in a study area to prove that they in fact have high average switching costs prior to receiving local switching support.⁷⁸ In the alternative, the Commission could explore the possibility of reducing the threshold to qualify for local switching support from 50,000 access lines in a study area to some lower number to reflect how economies of scale have changed over the last decade such that small carriers can now purchase digital switches that are designed to accommodate their needs. There are yet more changes to the embedded high-cost mechanisms that could result in additional savings.⁷⁹

In the longer term, the Commission could consider proposals to more fundamentally reform the high-cost universal service mechanisms. As CTIA noted in its comments in the Commission's IP-Enabled NPRM, the deployment of competitive services provided over a variety network platforms may necessitate a reexamination of the Commission's universal service mechanisms.⁸⁰ In particular, the Commission's high-cost universal service mechanisms appear increasingly out of step with marketplace realities. Contrary to the goals of the Act, the high-cost mechanisms continue to increase

⁷⁶ See 47 C.F.R. § 54.303; see also *High-Cost Referral Order*, at para. 10.

⁷⁷ *Id.* The amount of an incumbent LEC's local switching support is a function of its number of access lines and projected revenue requirement for a study area.

⁷⁸ See *id.*

⁷⁹ See *id.* at paras. 10-11.

⁸⁰ See CTIA Comments in WC Docket No. 04-36 (filed May 28, 2004), at 12-17.

rather than decrease in size over time, despite industry-wide efficiency gains, advances in technology, and amortization of depreciated equipment.

Consistent with prior determinations, the Commission could consider transitioning all incumbent LECs, starting with larger ILECs, to a unified high-cost mechanism that bases support on efficient “forward-looking” economic costs.⁸¹ In its Comments before the Joint Board, NASUCA, for example, proposed first transitioning incumbent LECs with more than 50,000 access lines in a state to the forward-looking methodology.⁸² Once this occurs, the Commission could more narrowly focus its attention on whether a forward-looking high-cost support mechanism could be made workable for the remaining 4% of access lines still eligible for support based on carrier embedded costs.⁸³ Alternatively, the Commission could consider abandoning incumbent “cost-based” support and creating a system of competitive bidding that would determine high-cost support levels for both incumbents and competitors. The Commission also could consider other ways of limiting support that do not discriminate against wireless ETCs.

CONCLUSION

The Commission should resist proposals to use the universal service mechanisms to discriminate against wireless ETCs. Rather than simply reducing support available to competitors, the Commission should fundamentally reexamine the underlying high-cost mechanism to determine what reforms are called for. Whatever changes are made to the

⁸¹ *Id.*

⁸² *See* NASUCA Reply Comments in CC Docket No. 96-45 at 32-33 (filed Jun. 3, 2003).

⁸³ *See id.*

underlying mechanisms, the Commission must ensure that universal service support continues to be distributed in both a competitively- and technologically-neutral manner, as required by the Act.

Respectfully submitted,

CTIA-The Wireless Association™

/s/ Michael Altschul

Michael Altschul
Senior Vice President, General Counsel

Diane Cornell
Vice President, Regulatory Policy

Paul Garnett
Director, Regulatory Policy

CTIA-The Wireless Association™
1400 16th Street, N.W.
Suite 600
Washington, D.C. 20036
(202) 785-0081

Its Attorneys

Dated: August 6, 2004