

**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 THE RURAL CARRIER GROUP

The Rural Carrier Group¹ hereby submits its comments in response to the Federal Communication Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM”) seeking comment on the Federal-State Joint Board on Universal Service *Recommended Decision* concerning federal high cost universal service rules.² Specifically, the Rural Carrier Group’s comments concern the Federal-State Joint Board on Universal Service’s (“Joint Board”) suggestion to limit high cost universal service support to a “single connection.”³ The Rural Carrier Group, representing both small rural wireline and small rural wireless telecommunications providers, believes that the single connection proposal is contrary to the Telecommunications Act of 1996 (“Act”) and will harm consumers in rural America.

¹ The *ad hoc* Rural Carrier Group is comprised of Central Texas Telephone Cooperative, Inc. in Texas; ENMR/Plateau Telecommunications in New Mexico; KanOkla Telephone Association, Inc. in Kansas and Oklahoma; Kaplan Telephone Company, Inc. in Louisiana; Public Service Cellular, Inc. in Alabama, and Valley Telephone Cooperative in Texas.

² *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 04-127 (June 8, 2004).

³ *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 19 FCC Rcd 4257 at ¶¶ 62 – 87 (February 27, 2004) (“*Recommended Decision*”).

I. Introduction and Summary

On February 27, 2004, the Joint Board released its *Recommended Decision* concerning, among other issues, the scope of high cost support for eligible telecommunications carriers (“ETC”). The Joint Board recommended that the Commission limit the scope of high-cost support to a single connection that provides access to the public switched telephone network, asserting that limiting support to a single connection “would be more consistent with the goals of section 254 [of the Act] than the present system”⁴ The Joint Board asserted that supporting only a single connection to residential consumers would fulfill the statutory goal of access to “reasonably comparable” telecommunications rates and services in “all regions of the Nation.”⁵ However, this conclusion is not supported by either the facts or the Joint Board’s other conclusions.

First, the Joint Board failed to consider substantial consumer use of additional lines, overlooking FCC data demonstrating a steady rise in the use of additional lines on a nationwide basis. In order to determine whether urban and rural rates and services are “reasonably comparable,”⁶ the Joint Board should have at least considered the rising consumer use of second lines, both wireline and wireless. The Joint Board’s failure to examine additional line data makes its conclusion to deny support for additional lines faulty. Second, the Joint Board concluded that there could be potential harm to multi-line business customers and rural economies under a single connection proposal.⁷

⁴ *Recommended Decision* at ¶ 62.

⁵ 47 U.S.C. § 254(b)(3).

⁶ *Id.*

⁷ *Recommended Decision* at ¶ 84.

Specifically, the Joint Board expressed concern that a single connection regime “may discourage operation of businesses, particularly small businesses, in rural areas” and suggested allowing “multiple connections for businesses, rather than restricting support to a single business connection.”⁸ This conclusion regarding the obvious harm that will befall rural businesses using multiple lines if support is limited to a single connection is inconsistent with the Joint Board’s conclusion that no such harm will befall rural consumers who utilize additional lines. The Joint Board fails to explain how limiting support to a single connection can be bad for the goose (rural businesses), yet not be bad for the gander (rural consumers).

As discussed below, the Joint Board’s abandonment of support for additional lines used by consumers is contrary to Congress’s explicit instructions to the Joint Board when it enacted the universal service provisions of Section 254 of the Act. Further, the Joint Board’s single connection proposal will harm rural residential consumers in conflict with Section 254 of the Act.

II. Comments

The Joint Board was tasked by Congress with making recommendations to “ensure that the definition of universal service evolves over time to keep pace with modern life.”⁹ Further, the Joint Board was tasked with considering “the extent to which a telecommunications service has been subscribed to by customers” when crafting universal service policy recommendations.¹⁰ There is no discussion in the *Recommended*

⁸ *Id.*

⁹ *Joint Explanatory Statement of the Committee of Conference, Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).*

¹⁰ *Id.*

Decision as to the extent to which consumers, both urban and rural, have subscribed to additional lines. Also, the Joint Board's single connection proposal, as borne out by statistics discussed *infra*, does *not* keep pace with modern life – in fact it ignores the nationwide trend of consumers, both urban and rural, increasingly adopting multiple lines, be they wireline or wireless. It is unlawful for the Joint Board to ignore its Congressional mandate to recognize evidence demonstrating the extent to which residential consumers use more than just a single connection.

Based on the most recent FCC statistics, for the year 2002, 18% of nationwide residential households utilize additional wireline connections to the public telephone network.¹¹ In 1988, only 2.7% of residential households had additional lines.¹² Clearly, the nationwide trend is an ever-increasing use of multiple connections by residential customers. The Joint Board's single connection proposal simply ignores this nationwide trend, in violation of its mandated statutory duty to take such trends into account when deciding what services to support.

The increased use of multiple lines is evident in the increased use of wireless phones, which, in recent years, have begun replacing additional wireline connections and, in certain instances, primary wireline connections. According to the Commission's most recent wireless statistics, in the 12 months ending December 2002, the mobile telephony sector increased subscribership from 128.5 million to 141.8 million, and produced a

¹¹ See Table 7.4, *Trends in Telephone Service*, Industry Analysis and Technology Division, Wireline Competition Bureau (May 2004).

¹² *Id.*

nationwide penetration rate of roughly 49%.¹³ Be it traditional wireline connections or wireless connections, consumers demand and expect multiple lines. By suggesting that only single connections be supported, the Joint Board is blind to nationwide realities and its Congressional mandate to ensure that rural consumers have access to telecommunications services “that are reasonably comparable to those services provided in urban areas.”¹⁴ Further, with wireless penetration levels reaching over 50%, the Joint Board risks being in violation of its duty to support services that have “been subscribed to by a substantial majority of residential customers.”¹⁵

Rural consumers are bound to be harmed by this proposal as they will soon find that if they choose to utilize a second line, like many urban consumers choose, they will be paying a premium.¹⁶ The Joint Board concedes that supporting “multiple connections is advantageous to consumers in high-cost areas.”¹⁷ Thus, any denial of such support would deny customers in high cost regions the benefits enjoyed by customers in urban areas, and would conflict with the statutory mandate guaranteeing rural consumers “comparable” rates and services to those enjoyed by urban consumers.¹⁸ Further, denying support that would ensure that rates for additional lines in rural regions remain

¹³ *In re Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Eighth Report, FCC 03-150 (July 14, 2003).

¹⁴ 47 C.F.R. § 254(b)(3).

¹⁵ 47 U.S.C § (c)(1)(B).

¹⁶ It has been the Rural Carrier Group’s experience that additional wireline connections cost as much to install and maintain as primary connections. Thus, rural customers will have to pay the full, unsupported costs of any additional lines if only single connections receive support.

¹⁷ *Recommended Decision* at ¶ 63.

¹⁸ 47 U.S.C § 254(b)(3).

comparable to urban rates would be contrary to Section 254(b)(3) of the Act and inconsistent with the “purpose of universal service,” which is to “benefit the customer.”¹⁹

III. Conclusion

The Joint Board’s single connection proposal glosses over potential harm to rural consumers and the steady rise in the use of additional lines. This stance represents a thorough failure by the Joint Board to heed Congress’s intent that universal service evolve and keep pace with modern life. By denying funding for additional connections, the Joint Board’s single connection proposal runs afoul of the statutory requirement to provide “sufficient funding of *customers*”²⁰ in order to ensure comparable rates and services. The only way for the FCC to preserve and advance universal service is for it to continue to support multiple connections for businesses *and* for individual consumers in rural America.

Respectfully submitted,

THE RURAL CARRIER GROUP

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¹⁹ *Alenco Communications, Inc. v. FCC*, 201 F.3d 601, 621 (5th Cir. 2001).

²⁰ *Alenco v. FCC*, 201 F.3d at 620.