Federated Investors, Inc.
Federated Investors Tower
1001 Liberty Avenue
Pittsburgh, PA 15222-3779
412-288-1900 Phone
www.federatedinvestors.com

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October 14, 2005

Ms. Marlene H. Dortch,
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: WC Docket No. 05-195, Comprehensive Review of Universal Service Fund Management, Administration and Oversight, FCC 05-124 (released June 14, 2005).

Dear Commissioners:

I am Executive Vice President, Corporate Counsel and a member of the Executive Committee of Federated Investors, Inc., ("Federated"), a Pittsburgh-based financial services holding company whose shares are listed on the New York Stock Exchange. Through a family of mutual funds used by or in behalf of financial intermediaries and other institutional investors, we manage over $200 billion. For the past 20 years, I have also been a member of the faculty of Boston University School of Law, teaching students about securities, banking and investment companies in the LLM program. I have previously testified before Congress on several occasions and consulted with federal agencies such as the Securities and Exchange Commission on banking and investment issues. A copy of my biography is attached.

Federated's customer, LaSalle Bank, N.A., headquartered in Chicago, is currently under contract to provide investment services to the Universal Service Administrative Company ("USAC" or the "Administrator"). As a result of this relationship, certain investment companies sponsored by Federated have been used by LaSalle Bank in behalf of USAC monies prior to their distribution to fund beneficiaries. Furthermore, LaSalle's and Federated's stewardship of the funds placed with them for investment has complied fully with their fiduciary obligations. Thus, Federated is particularly familiar with the issue the Commission faces in this rulemaking proceeding and Federated has a direct interest in its outcome.

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Paragraph 21 of the Notice of Proposed Rulemaking ("NPRM") states:

> We seek comment on other ways to ensure that universal service funds are sufficient to cover costs and administrative expenses. … Finally, we seek comment on whether the Commission should adopt rules or requirements governing the investment practices and policies of the Administrator. For example, should we adopt requirements restricting USAC investments to non-interest bearing accounts or Treasury bills?

While Federated agrees that the adoption of certain rules governing the actions and accountability of the Administrator could help ensure a high level of safety and soundness of USF monies while providing for solid returns, Federated strongly urges the FCC not to adopt restrictions limiting USAC investments to non-interest bearing accounts or Treasury bills. This would be a draconian measure that would accomplish little, while starving the USF of much needed funds and adding unnecessarily to the already substantial burden placed on USF contributors.

Extraordinary circumstances have led to the FCC's request for comments on this particular issue -- in particular, the 2004 determination that the Antideficiency Act required the liquidation of USF investments and the maintenance of USF funds in the U.S. Treasury. This action unnecessarily disrupted funding to schools and libraries for months and cost the USF several million dollars. In response, Congress passed the Universal Service Antideficiency Temporary Suspension Act in December 2004 explicitly to exempt the USF from the requirement that moneys be maintained in the U.S. Treasury and available in cash before they are obligated via USAC's commitment letters.

In adopting the exemption, Congress realized that, regardless of its accounting classification, the USF receives no annual appropriation of funds. USF monies are instead derived from a surcharge placed on the revenue generated from interstate telephone calls, and the existence of this predictable revenue stream negates the risks and concerns that the Antideficiency Act was designed to prevent. Federated expects that this temporary statutory exemption will be extended (see last paragraph below) and urges the FCC to prepare for this likelihood by promptly allowing the reinvestment of USF monies in non-Federal securities, as Congress' 2004 action permits. Limited rules to guide administration and investment of USF funds may facilitate this process, as described below.

The principles that should guide the FCC and USAC regarding the investment of USF monies are straightforward: First, protect the funds collected from contributors (safety/soundness). Second, assure that funding commitments can be extended to beneficiaries in a timely fashion (liquidity). Third, put revenues to work to earn the maximum possible return in light of the other principles (investment return). The adoption of limited rules or requirements governing the Administrator based on the above principles could very well enhance the condition of the USF, serve the public interest, and lower the required contribution factor.

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Numerous other government and private sector funds have been successfully managed with policies guided by similar objectives, from the federal Thrift Savings and Railroad Retirement Trust Funds ("RRTF") to state pension funds, to private investment funds. For example, the Administrator, like the members of the RRTF's Board of Trustees, should be charged with investing USF funds for the exclusive purpose of providing funding commitments and benefits to program constituencies and defraying administrative costs. The Administrator should be required to act with the care, skill, prudence and diligence of a person acting in a like capacity and to diversify investments so as to minimize risk and avoid disproportionate influence over a particular industry or firm. Prohibitions against conflicts of interest and reporting requirements stating the USF's financial position, cash flows, and controls would also be prudent. Finally, the FCC could require that the Administrator retain independent advisors to assist in the formulation and adoption of investment guidelines.[1] These sorts of management and oversight-oriented rules would enhance public confidence in USAC's accountability without unduly tying the hands of the Administrator.

On the other hand, there is no public interest rationale that can support requirements restricting USAC investments to non-interest bearing accounts or Treasury bills. First, such a requirement would actually harm the USF and, as the contribution factor grows ever larger, the entire telecommunications industry. Investing USF monies solely in non-interest bearing accounts or Treasury bills would likely fail to keep pace with inflation and would almost certainly provide a lower predicted return than investments in non-Federal securities. This would unnecessarily increase the burden of financing universal service on contributors to the USF and their customers, and such increased telecommunications costs impose a drag on all sectors of the U.S. economy.

Second, the USF is unlike many federal earmarked funds in that it has a history of successful private sector investing that has supplemented federally-imposed surcharges and helped avert large fee increases on telecom providers. The FCC should not turn its back on this capability, but should strengthen and refine it responsibly for the benefit of both the USF's contributors and its beneficiaries. In an era of increasingly scarce federal resources, investing USF monies outside the Treasury both preserves collected amounts from being poached by other government programs and enhances the amounts available for universal service programs in an efficient manner.[2]

Third, if some sort of restriction on investments is deemed absolutely necessary due to fears that certain levels of market risk are not worth the predictable higher returns, the FCC should not limit USAC's investments any further than to Federal and non-Federal debt instruments, including bank time deposits and shares of open-end investment companies registered under the Investment Company Act of 1940, the portfolio securities of which consist of such debt instruments. Investments in a

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[1] See Section 105 of the Railroad Retirement and Survivors' Improvement Act of 2001, Pub. L. 107-90
[2] While Federated and other investment firms are compensated for their services, this amounts to a tiny percentage of the returns generated by their investments.

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diversified combination of money markets, time deposits, ultra short duration funds and short duration mutual funds would provide a return significantly better than could be earned by Treasury bills alone and would do so without sacrificing other objectives. While market risk to USF funds cannot be wholly eliminated through such a restriction, it would be minimized to an insignificant level. In this way, the FCC could assure the continued safety/soundness, liquidity, and necessary investment return of the USF.

Finally, I would like to note that while the current Antideficiency Act exemption is due to expire December 31, 2005, legislation to make the exemption permanent has been introduced in both the U.S. House and Senate (H.R. 2533/S. 241) and cosponsored by 85 Representatives and 44 Senators. In addition, the Senate approved a one-year extension of the current exemption in the recently passed Commerce-Justice-Science Appropriations bill, H.R. 2862. Congress is clearly concerned about how USF funds are maintained and distributed. The FCC should be sensitive to the will of the legislative branch and ensure that its rules and requirements are appropriate for the prudent stewardship of the public's funds that rest temporarily under its authority in the USF.

Respectfully submitted,

Eugene F. Maloney

Eugene F. Maloney
Executive Vice President &
Corporate Counsel

Enclosure - Bio

EUGENE F. MALONEY

Executive Vice President and Corporate Counsel
Federated Investors, Inc.
Pittsburgh, PA

Mr. Maloney is Executive Vice President, Corporate Counsel and a member of the Executive Committee of Federated Investors, Inc. and has been employed by the firm for thirty-three years.

Mr. Maloney is a Director of the Foundation for Fiduciary Studies and was recently appointed by the U.S. House of Representatives and Senate as a member of the Industry Sector Working Group on Financial Services. He is an instructor in trust and securities law at Boston University School of Law, has been a visiting instructor at the Federal Financial Institutions Examination Council and the American Bankers Association's National Graduate Trust School at Northwestern University, and participates in programs leading to the designation of Certified Trust and Financial Advisor. Mr. Maloney has also served as an expert witness in both judicial and legislative settings on matters relating to fiduciary compensation, will construction, and prudent investing.

Mr. Maloney has appeared as a speaker at American Bankers Association gatherings and is a frequent speaker at State Bankers Association meetings on the following subjects: the Gramm-Leach-Bliley Act, the deregulation of the financial services industry, the Uniform Prudent Investor Act and the investment management process it contemplates, fiduciary compensation, revisions to Regulation Q, pension reform and asset allocation as a means of optimizing return and minimizing risk.

Mr. Maloney has authored and co-authored a number of articles appearing in various financial and legal publications regarding the investment responsibilities of corporate fiduciaries. He has also been the architect of various educational videos and memoranda having to do with the Uniform Prudent Investor Act, the implications for trust banks of functional regulation under the Gramm-Leach-Bliley Act, asset allocation in a trust context, the prudence of international investing, fiduciary compensation, and the propriety of a corporate fiduciary utilizing a mutual fund to which it provides discrete services.

Mr. Maloney received his B.A. from Holy Cross College in Worcester, Massachusetts, and his J.D. from Fordham Law School in New York City. He attended Wharton School of the University of Pennsylvania focusing on the financial management of commercial banks. He was an officer in the United States Army from 1969 to 1972 and served as an infantry officer for one year in the Republic of Vietnam.