

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)
)
Federal-State Joint Board on)
Universal Service)
)
Federal-State Joint Board on)
Universal Service Seeks Comment)
On Proposals to Modify the Commission's)
Rules Relating to High-Cost Universal)
Service Support)
)

CC Docket. No. 96-45

TO: Federal-State Joint Board on Universal Service

REPLY COMMENTS OF THE WISCONSIN STATE TELECOMMUNICATIONS
ASSOCIATION

October 31, 2005

I. INTRODUCTION

The Wisconsin State Telecommunications Association (“WSTA”), on behalf of its members,¹ files the following Reply Comments relating to proposals currently under the Federal-State Joint Board’s (“Joint Board”) consideration regarding high-cost universal service support. Each of the four proposals before the Joint Board seeks to dramatically modify the Federal Communications Commission’s (“FCC’s”) rules regarding high-cost universal service support.

Given the geographic nature and population dispersion in the state of Wisconsin, which has a significant amount of rural population, the high-cost support system has been an extremely important element in the development of Wisconsin’s telecommunications infrastructure. High-cost support from the Universal Service Fund (“USF”) has allowed Wisconsin companies to build reliable networks throughout the state, providing access to services at very affordable rates. Simply put, the services available throughout Wisconsin are a testament to the value of the high-cost support system.

The four reform plans before the Joint Board would significantly change the high-cost support mechanisms currently in place. WSTA member companies are aware that the current system is not perfect and that some of the reforms put forward could make the high-cost support system more effective and more efficient. These are goals that WSTA member companies strive for every day in their businesses. However, with respect to Incumbent Local Exchange Carriers (“ILECs”) who operate as Eligible Telecommunications Carriers (“ETCs”), wholesale and dramatic changes in the

¹ WSTA is a membership trade association which represents all of Wisconsin’s 83 local exchange carriers. Some WSTA members have filed separate comments in this docket or have joined comments that express their specific views on these issues. These comments are not intended to supplant or supersede the views expressed separately by WSTA member companies.

calculation and distribution of high-cost support are not warranted at this time. Indeed, several of the reforms outlined in the four plans may actually have a detrimental effect to the mandates of universal service:²

to promote the availability of quality services at just, reasonable, and affordable rates; increase access to advanced telecommunications services throughout the Nation; advance the availability of such services to all consumers, including those in low income, rural, insular, and high cost areas at rates that are reasonably comparable to those charged in urban areas.

See 47 U.S.C. § 254 (b).

Several of the initial Comments filed in this docket outline and illustrate concerns with the current proposals that are shared by WSTA member companies. To help minimize duplicative filings and to help maximize the Joint Board's attention to this issue, this submission provides specific concerns identified by the WSTA membership. Where possible, we reference other Comments filed in this docket that further illustrate the WSTA's concerns.

II. HIGH-COST SUPPORT SHOULD BE DETERMINED BASED ON EMBEDDED COSTS RATHER THAN A "FORWARD LOOKING" ECONOMIC MODEL

The high-cost support system should continue to use embedded costs as the basis for support, rather than switching to an economic model that attempts to predict the "forward-looking" costs associated with the provision of telecommunications service.

² This point is further illustrated by the United States Telecom Association ("USTA"). In their Comments, the USTA noted that none of the proposals, taken in their entirety, would produce measurable benefits to the high-cost support but could destabilize the viability of the fund. *United States Telecom Association*, CC Docket No. 96-45, Comments at 7-10 (September 30, 2005).

Moving away from a system that is based on the real and actual costs embedded in the current infrastructure would significantly undervalue the investments that companies have already made to build the Public Switched Telephone Network (“PSTN”). It has been these historic investments that allow the telecommunications system to be universal and affordable throughout the state of Wisconsin, including the many rural areas of the state.

As argued by CenturyTel, forward-looking costs have been considered in the past, but proposals have consistently failed to show that they will accurately predict the cost of providing service in rural areas. *CenturyTel, Inc.*, CC Docket No. 96-45, Comments at 18 (September 30, 2005). Like those before them, the proposals currently before the Joint Board also fail to provide sufficient detail as to how exactly forward-looking costs will be calculated. *Id.* This is particularly concerning for rural companies who operate in areas where costs are much more difficult to predict on a forward-looking basis. *Id.*; *see also, ICORE, Inc.*, CC Docket No. 96-45, Comments at 7 (September 30, 2005) (“...there is absolutely no assurance that a forward looking economic cost model would in any way adequately replicate the specific costs of individual ILECs in providing universal service.”)

The USTA also addressed this point, noting that the use of embedded costs is a “time-tested method that has ensured ubiquitous service in rural areas...[the current system has a] record of successful performance; ease of administration; investment incentives resulting from stable support; and the use of

real world costs.” *United States Telecom Association*, CC Docket No. 96-45, Comments at 6 (September 30, 2005). The WSTA agrees with these points.

Given the concerns addressed above, the Joint Board should not move away from a system that recognizes the real and actual costs associated with universal service and move towards an untested and unpredictable system that could marginalize the investments made in rural areas. Using embedded costs as the basis for high-cost support will encourage continued investment in telecommunications infrastructure and ensure that companies are able to continue to provide service at affordable rates – the end goal of the universal service program.

III. ESTABLISHING A BLOCK GRANT SYSTEM ADMINISTERED BY STATE COMMISSIONS WOULD BE DETRIMENTAL TO THE HIGH-COST SUPPORT SYSTEM

Several of the proposals currently before the Joint Board advocate for a block grant system to distribute high-cost support rather than distributing the support directly to the carriers. Under such a system, the FCC would determine the high-cost support amount for an entire state, and then provide that money to the state’s public service commission (or its equivalent in each state). In turn, the state commission would then distribute the funding to the state’s telecommunications providers. WSTA member companies believe that the block grant model would be detrimental to the goals of the universal service program and should not be approved at this time.

A. The Block Grant Proposal May Be An Invalid Sub-Delegation Of Power

First and foremost, the block grant system would be a dramatic shift in the way high-cost support is distributed – so dramatic that it may actually be an improper sub-delegation of the FCC’s powers. As noted by Interstate Telcom Consulting, Inc., § 254 of the Telecommunications Act of 1996 limits state involvement in the universal service funding mechanisms. *Interstate Telcom Consulting, Inc.*, CC Docket No. 96-45, Comments at 5 (September 30, 2005).

Interstate Telcom appropriately notes that state commissions are limited to establishing their own universal service mechanisms to supplement the federal USF. *Id.* Regardless, under § 254 of the 1996 Act, the FCC has sole authority over the federal USF. *Id.* Absent specific statutory directives, the FCC cannot delegate this authority to an outside entity, including state commissions. *Id.* at 7 (citing *United States Telephone Association v. FCC*, 359 F3d 554, 565-68 (D.C. Cir. 2004)). Given this, the legal foundation for the block grant system is unstable and is likely to be challenged in court.

B. The Block Grant System Is More Likely To Lead To Inefficiencies Not Present In The Current System

Aside from the legal issues, there are policy concerns with this proposal. Indeed, the block grant system is likely to lead to greater inefficiency in the processing of high-cost support, leaving fewer funds to actually improve telecommunications service. This is an outcome that the Joint Board should be seeking to eliminate rather than create.

The Organization for the Promotion and Advancement of Small Telecommunications Companies notes that the Joint Board specifically rejected the block grant idea in 1998. *Organization for the Promotion and Advancement of Small Telecommunications Companies*, CC Docket No. 96-45, Comments at 8 (September 30, 2005). At that time, the Joint Board noted the lack of statutory authority to make such a change in the distribution process. *Id.* (citing *Federal-State Joint Board on Universal Service*, CC Docket No. 96-46, Second Recommended Decision, 13 FCC Rcd 24744, 24767 ¶ 61 (1998)). The Joint Board also found that a block grant system would increase the administrative burdens on states. *Id.* Nothing has changed since 1998 that would mitigate these concerns.

The Montana Independent Telecommunications System (MITS) illustrates another concern with this proposal: state commissions vary greatly in their structure and resources. *Montana Independent Telecommunications Systems*, CC Docket 96-45, Initial Comments at 5 (September 30, 2005). Some commissions, like the FCC and the Wisconsin Public Service Commission, are composed of members that have been appointed by the executive. *Id.* Others, however, have decision-makers who are elected to their positions. *Id.* at 5-6. It is easy to see how decisions could be more easily politically influenced if the elected commissioners were to be in charge of decisions relating to the millions of dollars in high-cost support.³ Having a single decision-maker is more efficient⁴ and

³ To be sure, state commissioners currently deal with decisions that have significant economic impacts. However, in the present case, the choice is to either maintain the current framework which minimizes the ability to overtly politicize decisions or to move toward a system that is more likely to become politicized. Given this choice, maintaining the current system seems far more appropriate.

further insulates companies from the political concerns that could arise under the block grant model.

Additionally, state commissions vary greatly in the resources they have available to them. *See id.* at 6. Wisconsin is lucky to have a Commission with sophisticated members working with an excellent staff. However, recent budget cuts and large case loads dealing with the construction of electric generating facilities have limited the Commission's ability to deal with every issue. Resource issues are certainly a concern at the federal level as well, but the effect of resource allocations under the current method affect all companies on an equal basis, rather than having forty to fifty different effects.

In total, a block grant system would likely lead to greater inefficiencies and work to politicize the process of getting high-cost support to areas that need it.

IV. CONCLUSION

For the reasons stated above, the WSTA discourages the Joint Board from making drastic changes to the current high-cost universal service support mechanisms that will reduce efficiency and discourage continued investment in telecommunications infrastructure. Specifically, the Joint Board should retain embedded costs as the basis for high-cost support and refrain from establishing a block grant program to distribute high-cost support.

⁴ For a further discussion of the inefficiencies the block grant model is likely to create, *see* Comments of the *Organization for the Promotion and Advancement of Small Telecommunications Companies*, CC Docket No. 96-45, Comments at 10-11 (September 30, 2005).

Respectfully submitted,

/s/

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