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STATE OF FLORIDA



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## Public Service Commission

May 19, 2006

### VIA ELECTRONIC FILING

The Honorable Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re:** CC Docket No. 96-45, Federal-State Joint Board on Universal Service  
WC Docket No. 05-337, High-Cost Universal Service Support

Dear Ms. Dortch:

Forwarded herewith are reply comments of the Florida Public Service Commission in the above dockets with regard to the Universal Service high-cost support mechanism for non-rural carriers.

Staff Member Greg Fogleman at (850) 413-6574 is the primary contact on these comments.

Sincerely,

/ s /

Cindy B. Miller  
Senior Attorney

CBM:tf

cc: Brad Ramsay, NARUC

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
	)	

**REPLY COMMENTS OF THE  
FLORIDA PUBLIC SERVICE COMMISSION  
IN RESPONSE TO THE FEDERAL COMMUNICATIONS COMMISSION'S  
NOTICE OF PROPOSED RULEMAKING**

CHAIRMAN LISA POLAK EDGAR

COMMISSIONER J. TERRY DEASON

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May 19, 2006

### **Introduction**

The Florida Public Service Commission (FPSC) submits these reply comments in response to the Notice of Proposed Rulemaking (Notice) released on December 9, 2005. In this Notice (FCC 05-205), the Federal Communications Commission (FCC) seeks comment on several issues relating to the high-cost support mechanism for non-rural carriers. As part of this notice, the FCC also seeks comment on a proposal by Puerto Rico Telephone Company, Inc. (PRTC) that the FCC adopt a non-rural insular (island) support mechanism. According to PRTC, the penetration rate in Puerto Rico increased from 25 percent in the 1970s to over 70 percent in 1996. PRTC claims, however, that since its high-cost funding began to decline in 2001 pursuant to FCC actions, Puerto Rico's previous growing penetration rate has fallen back to below 70 percent.

In its filings, PRTC requests high-cost universal service support through a new non-rural insular support mechanism. Specifically, PRTC requests that, pending the FCC's comprehensive review of its high-cost support program, the FCC adopt a non-rural insular mechanism based on embedded costs on an interim basis. PRTC states that this interim mechanism should be "patterned after, but distinct from," the existing mechanism for rural telephone companies. PRTC proposes that the FCC adopt a non-rural insular mechanism based on actual costs, calculated using Part 36 of the FCC's rules. PRTC is the only incumbent carrier serving a high-cost insular area that is not currently classified as a rural carrier for universal service support. Thus, only PRTC (or any future competitive ETCs that enter its territory) would benefit from these changes. The FCC has concluded it would treat PRTC's Petition as a petition for rulemaking.

### **The FCC should not adopt an Insular Non-Rural Support Mechanism**

The FPSC agrees with those commenters opposed to the creation of another support mechanism.<sup>1</sup> PRTC attributes its low and declining telephone subscribership to the reduction in its high-cost support, the inherent costs of serving an insular area, and high poverty rates. While the FPSC acknowledges that the subscribership rate in Puerto Rico is low, it is not clear that creating a new high-cost support mechanism for PRTC is the best way to increase telephone subscribership. As

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<sup>1</sup> Nebraska Rural Independent Companies, General Communications Inc., Dobson Cellular Systems, Inc., and Sprint Nextel Corp.

noted by Sprint Nextel, "... PRTC has failed to demonstrate that their proposed USF mechanism is either necessary or in the public interest."<sup>2</sup>

Furthermore, as noted by Dobson Cellular Systems, the FCC is in the process of considering several reforms to the high-cost programs, including a proceeding that has asked the Universal Service Joint Board to consider the definition of rural and non-rural carriers and the necessity of separate support programs.<sup>3</sup> The results of these proceedings could have a mitigating effect on the need for a high-cost fund specifically for Puerto Rico. Thus, the FPSC recommends waiting until the completion of the proceedings before the Universal Service Joint Board.

The FCC should be reluctant to create additional support mechanisms given the current pressures on the universal service funds. The FCC has already concluded that in those rare cases where additional support is necessary to make local service affordable, supplemental support would be made available. This supplemental support is consistent with the Universal Service Joint Board's recommendation to permit a state commission to request further federal support. The FCC requires, however, a demonstration that rates assessed in rural, high-cost areas served by non-rural carriers are not reasonably comparable to urban rates nationwide and that the state has taken all reasonable steps to achieve reasonable comparability.<sup>4</sup> The FCC has stated that further federal actions could include, but are not limited to, additional targeted federal support, actions to modify calling scopes, or improving quality of service where state commissions have limited jurisdiction. The ability to request further federal action provides a means to address any isolated failures. To the extent that PRTC believes additional support is necessary, it should look to this supplemental support before requesting that a new support mechanism be added to the multiple support programs that currently comprise the high-cost program.

### **The Transition from Embedded Support to Forward-Looking Support**

Under the FCC's existing rules, PRTC is a non-rural carrier. As such, it receives support based on the High-Cost Model Support (HCM), which does not rely on use of embedded costs. Instead, the HCM mechanism is based on the forward-looking costs of providing supported services as determined by the FCC's Synthesis cost model. For each state (or territory), the cost model

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<sup>2</sup> Comments of Sprint Nextel, FCC Docket Nos. 96-45, 05-337, March 27, 2006; p8.

<sup>3</sup> Comments of Dobson Cellular Systems, FCC Docket No. 96-45, 05-337, March 27, 2006; pp.11-12.

calculates, at the wire center level, the forward-looking cost per line incurred by non-rural carriers to provide supported services. PRTC argues that using the FCC's model is inappropriate to PRTC because the Synthesis Model does not reasonably determine the costs associated with providing supported services in insular areas.

The FPSC generally agrees with the comments of General Communications Inc. (GCI) which note that using "Embedded costs do not discipline suppliers, supporting costs even where those costs exceed the level necessary for an efficient carrier to provide supported services."<sup>5</sup> The FCC has acknowledged this point in prior Orders.<sup>6</sup> However, we acknowledge that the structure of the FCC's model and its associated inputs are in need of a comprehensive review. Such a review should include looking to address unique cost characteristics of insular areas within the context of the existing HCM mechanism. The FCC may have been hesitant to initiate such a proceeding while defending other aspects of its HCM mechanism in response to the latest remand from the 10<sup>th</sup> Circuit Court of Appeals. However, the FPSC believes that the questions involving the cost model's inputs and its underlying algorithms are independent of the issues the Court has remanded to the FCC.

The PRTC has asserted that reductions in high-cost support have adversely affected subscribership in Puerto Rico. The FPSC finds little record support for such a proposition. Specifically, if the reductions in high-cost support were flowed through to end-users in the form of rate increases, then perhaps a link could be substantiated. Conversely, if rates remained constant during the time period over which high-cost support was reduced, this would suggest that there is no correlation between the amount of high-cost support PRTC received and subscribership levels. Without such data, it is difficult to ascertain whether or not the transition from embedded support to the FCC's modeled support has had any impact on subscribership. Thus, the FPSC recommends that PRTC's request for a new mechanism is not persuasive and should be denied at this time.

### **Income and Poverty**

In support of its petition for a new support mechanism, PRTC also cites the poverty level in Puerto Rico. The wireline telephone subscribership in Puerto Rico is approximately 30 percent below

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<sup>4</sup> FCC, Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order, FCC 03-249, October 27, 2003

<sup>5</sup> Comments of General Communications, Inc. March 27, 2006, FCC Docket Nos. 96-45, 05-337, p.34.

the national average (which is 94 percent).<sup>7</sup> Like GCI and Sprint Nextel, the FPSC maintains that this fact does not justify the creation of a new high-cost support mechanism.<sup>8</sup> We note that the FCC modified the federal Lifeline program in the past to address unique issues affecting telephone penetration levels on tribal lands. There, the FCC created an additional tier of support for qualified consumers on or near tribal reservations. We believe the reasons the FCC chose to address affordability issues through the low-income programs are still valid. This additional tier of support provides:

- Up to \$25 per month in additional federal Lifeline Assistance (Lifeline) support to eligible telecommunications carriers serving qualifying low-income individuals living on American Indian and Alaska Native lands in order to substantially reduce the cost of basic telephone service for such individuals; and
- Up to \$70 per consumer in additional federal Lifeline Connection Assistance (Link Up) support to eligible telecommunications carriers initiating service to qualifying low-income individuals living on American Indian and Alaska Native lands to offset initial connection charges and line extension costs associated with the initiation of service on behalf of those individuals.

To the extent the FCC believes that action is necessary to address the relatively low subscribership levels in Puerto Rico, the FPSC believes that adding an additional tier of support to the existing Lifeline and Linkup programs (or perhaps allowing Tier 4 Lifeline funding to be available in Puerto Rico) would more closely target support to consumers and is consistent with prior FCC decisions.

### **Conclusion**

The FPSC does not believe the interim high-cost support mechanism sought by PRTC is warranted at this time for several reasons. PRTC has failed to show how decreases in high-cost support have negatively affected subscribership. To the extent that the FCC wishes to provide additional high-cost support, the supplemental support mechanism already exists. Furthermore, the creation of a new insular high-cost mechanism for one carrier appears to be inconsistent with how the

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<sup>6</sup> FCC, Federal-State Joint Board on Universal Service, Report and Order, 1997. The FCC noted that embedded cost mechanisms send “the wrong signals to potential entrants and existing carriers.” The FCC further noted that the use of embedded costs results in “subsidization of inefficient carriers at the expense of efficient carriers.”

<sup>7</sup> Comments of Puerto Rico Telephone Company, March 27, 2006, FCC Docket Nos. 96-45, 05-337, p. 3.

<sup>8</sup> Comments of General Communications, FCC Docket Nos. 96-45, 05-337, March 27, 2006; p. 35.

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FCC has addressed similar subscribership issues on federally recognized tribal lands. There, the FCC expanded Lifeline and Link-up support, not high-cost support. The FCC should not seek to address affordability issues through the high-cost mechanism. To the extent that action is necessary, the FCC should consider using the Lifeline and Link-up programs. We believe that these programs address affordability issues in a more targeted manner. Finally, the FPSC believes that granting PRTC's petition is premature since issues regarding high-cost support are pending before the Universal Service Joint Board and the FCC.

The FPSC appreciates the opportunity to provide reply comments and looks forward to continued participation.

Respectfully submitted,

/ s /

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