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March 22, 2007

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street SW
Washington DC 20554

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

Dear Ms. Dortch:

On March 22, 2007, the attached document was transmitted via electronic mail to all the addressed parties listed therein. Pursuant to section 1.1206 of the Commission's rules, I am filing this document so that it can be included in the record of the above noted proceedings.

If you have any questions regarding this filing, please do not hesitate to contact me at (202) 457-2041.

Sincerely,

/s/ Mary L. Henze

cc: Chairman Kevin J. Martin
Commissioner Deborah Taylor Tate
Commissioner Jonathan Adelstein
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Hon. Ray Baum
Hon. Lisa Polak Edgar
Hon. Larry S. Landis
Hon. John D. Burke

Hon. Billy Jack Gregg
Daniel Gonzalez
Michelle Carey
Ian Dillner
Scott Bergmann
Scott Deutchman
John Hunter
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March 22, 2007

Hon. Deborah Taylor Tate
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Hon. Ray Baum
State Chair, Federal-State Joint Board on Universal Service
Oregon Public Service Commission
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Re: In the Matter of Federal-State Joint Board on Universal Service, High Cost Universal Service Support, WC Docket No. 05-337; In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45

Dear Commissioner Tate and Commissioner Baum:

As Chairman Martin remarked when the Joint Board convened its en banc hearing on February 20, high-cost universal service funding in this country is in desperate "need of repair and revision."[1] As the Joint Board has recognized, it is high time for a fundamental review of universal service — with an eye toward both immediate reform and long-term overhaul of a broken system.

AT&T enthusiastically supports the Joint Board's initiative and its commitment to explore recommendations to shore up and advance universal service. Nothing could be more important: the guarantee of affordable, high-quality service to all consumers is one of the nation's core telecommunications values. And it is a value to which AT&T has been uniquely dedicated. While other carriers have responded to eroding implicit support and limited explicit support by divesting or otherwise abandoning their higher-cost areas, or choosing not to enter them in the first place, AT&T has remained committed to serving all its customers, wherever they live. With proper support, this commitment could — and should — include the deployment of next-generation services. But as AT&T and other carriers across America have experienced firsthand, insufficient and unstable universal service funding not only threatens the continued quality of today's legacy services; it also is a major deterrent to investment in advanced, broadband facilities and services.

[1] Opening Remarks of Chairman Kevin Martin, Federal-State Joint Board on Universal Service En Banc Meeting at 5 (Feb. 20, 2007) ("Martin En Banc Statement").

AT&T accordingly cannot share in the approach to universal service reform advocated by some industry participants in this proceeding. Some commenters have proposed simply capping the fund where it stands today and never distributing an additional dollar to any other location, no matter what the need. Others refuse to acknowledge the importance of freeing up improperly and inefficiently allocated funds to support critical services in the future, and instead are concerned solely with ensuring their continued access to support dollars. But neither position would advance fundamental universal service policies: the provision of sufficient funding to ensure that consumers in high-cost and rural areas have access to high-quality services at prices comparable to those in more urban regions. And unless universal service funding is reformed to ensure that this commitment is met, consumers in rural and high-cost areas are at risk of being left further behind in the broadband revolution, and the country as a whole is at risk of continuing to lag behind others across the globe.

The first step to long-term reform, as the Joint Board has correctly recognized, is to address an immediate means of getting control of the fund in the short run. Such stabilization is crucial, as it will allow the Joint Board and the industry to engage in reasoned exploration of longer-term reform options, as well as means to promote broadband deployment. As the high-cost fund has careened out of control, it has become increasingly impossible to consider, much less implement, the types of reform that will be necessary to move universal service forward. Funding reached a high water mark of $4 billion this year — and is already racing to exceed that level. The number of CETCs has exploded — the overwhelming majority of study areas have *at least* two CETCs already, while 156 study areas have at least *four*, and a handful have *sixteen or more*[2] — and CETCs received almost *one billion* dollars of funding in 2006.[3] The results of this runaway growth are real and pernicious. For one thing, the contribution factor just increased from 9.7% to 11.7% in a *single quarter* — notwithstanding last year's addition of VoIP dollars and increased funding from wireless carriers. Meanwhile, however, there has been no surge in telecom service penetration in high-cost and rural areas.[4] Instead, consumers are in many cases footing the bill to subsidize three or even four wireless ETC lines in the same household.[5] In some states, CETCs collectively receive more than the

[2] These figures were derived through analysis of USAC data. *See* Universal Service Administrative Company, *Second Quarter Appendices — 2007*, *available at* http://www.universalservice.org/about/governance/fcc-filings/2007/quarter-2.aspx.

[3] Martin En Banc Statement at 4.

[4] For example, the overall penetration rate in the United States increased only 0.6 percent from July 2005 to July 2006, even though the universal service fund ballooned over the same period. *See* Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau, *Telephone Subscribership in the United States (Data through July 2006)*, at 3 (Jan. 2007). In fact, penetration rates even *dropped* for some time during the period when funding was climbing, and have not regained their prior peak since then. *Id.* at 7, Chart 1.

[5] A review of TNS data shows that over 13% of supported wireless CETC lines are in households that have at least three such lines, and over 8% are in households with *four* such lines.

carriers of last resort.[6] Further, as noted above, the size of the fund is seen by many as a stumbling block to adopting important, long-term reforms that will advance universal service policy and consumer welfare nationwide, including intercarrier compensation reform and broadband deployment incentives. In short, the fund must be quickly stabilized both to prevent further harm and to facilitate pursuit of important universal service goals.

This submission by AT&T sets forth the parameters of a solution for short-term stabilization of the fund. Our proposal, described below, is discrete, simple, and readily implemented. It has three main components, each of which would be in effect for one year: a moratorium on consideration of ETC applications for federal high-cost funding at the federal and state levels; a line-growth freeze for all wireless ETCs[7]; and approximately $200 million in targeted reductions to certain existing funding mechanisms. If necessary, these measures could be conditionally extended for up to one additional year,[8] provided that the Commission adopts long-term reform by the end of that year. Adoption of this interim plan would immediately stabilize the fund and halt the enormous growth that has been experienced over the past three years in high-cost funding. AT&T's interim plan is not a crude "cap," however. Simply freezing the fund is neither an appropriate nor a sufficient goal. This interim "stabilization" step must be seen not only as a means of providing the Joint Board with time to conduct its review of longer-term proposals, but as the first step on the path to such fundamental reform. There is little to be gained from locking in place flaws in the current system in the name of stabilizing the *fund*, if the result will be only further deterioration of *universal service* in both the interim and over the long term. Although this will mean that all carriers — including AT&T, a major ILEC and one of the largest wireless carriers providing CETC services — will need to shoulder at least a short-term reduction in certain funding, this is a small price to pay for stabilization and for progress toward more fundamental reform.

Our approach is, and the Joint Board's recommendation should be, guided by the following principles:

- *Rather than crudely capping absolute dollar amounts, as Verizon and even CTIA to some degree propose, the appropriate solution is to cap the* ***source*** *of runaway fund growth.* As Chairman Martin has noted, the growth in the fund

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[6] *See* Universal Service Administrative Company, *Second Quarter Appendices — 2007, HC01 — High Cost Support Projected by State by Study Area* (2007), *available at* http://www.universalservice.org/about/governance/fcc-filings/2007/quarter-2.aspx. From a public policy perspective, this phenomenon of CETCs receiving more support than the carrier of last resort is troubling and should be examined by the Joint Board and the Commission.

[7] This freeze would not apply to new Lifeline lines.

[8] Unless the Commission exercises its option to extend the interim plan, it will sunset at the end of one year. In no event shall the interim plan be extended beyond the additional one-year period. This is critical to ensure that long-term relief is in place at the end of the second year.

has come most significantly from new ETCs and new ETC lines.[9] CETCs received almost $*1 billion* in 2006, and — based solely on existing applications before the *Commission*, not the States — they are on track to receive over $*1.5 billion* in 2007.[10] The growth trend in universal service payments to CETCs has been 101% per year since 2002.[11] Meanwhile, CETCs are typically entering in areas already served by ETCs: as noted above, hundreds of study areas have two or three CETCs; almost 160 study areas have four or more CETCs; in four study areas, there are sixteen or more; and in two of these there are more than *twenty*.[12] And these CETCs often receive support for three and even four lines per household. From line growth alone, even *existing* CETCs could bloat the fund by almost $*2.25 billion* by 2009.[13]

Stabilization efforts should — and easily can — focus directly on limiting this substantial source of fund acceleration. Such a targeted, surgical approach will allow the Commission to immediately control oversized fund growth, without hampering support to rural carriers.

- *The focus of interim reform efforts should be moving toward "right sizing" the fund to achieve legitimate universal service goals — not freezing the fund at arbitrary levels.* It is nonsensical to embark on a program of reform by freezing in place today's universal service funding, as Verizon and some others have suggested the Joint Board endorse for the short term.[14] This is so for two reasons.

  To begin with, aspects of today's funding are oversized and skewed, bearing no relationship to universal service policies. For example, as noted, ETCs frequently receive support today for multiple phones in the same household, and all carriers receive support based on the ILEC's costs (and/or the ILEC's

[9] Martin En Banc Statement at 4; *see also* Presentation Slides Accompanying Opening Remarks of Chairman Kevin Martin, Federal-State Joint Board on Universal Service En Banc Meeting at 1 (Feb. 20, 2007) ("Martin En Banc Presentation Slides").

[10] Martin En Banc Statement at 4-5; *see also* Martin En Banc Presentation Slides at 4.

[11] Martin En Banc Statement at 4.

[12] *See* Universal Service Administrative Company, *Second Quarter Appendices — 2007*, *available at* http://www.universalservice.org/about/governance/fcc-filings/2007/quarter-2.aspx.

[13] Martin En Banc Presentation Slides at 4; *see also* Martin En Banc Statement at 5 (noting that if all CETC applications pending before the Commission are approved, "[e]ven assuming no additional CETC designations are made in 2008 and 2009, universal service payments to CETCs would continue to grow to almost $2 billion in 2008 and $2.5 billion in 2009.").

[14] *See, e.g.*, Letter from Kathleen Grillo, Verizon, to Deborah Taylor Tate, FCC, and Ray Baum, Or. Pub. Serv. Comm'n, WC Docket No. 05-337, at 3-5 (filed Feb. 9, 2007) ("Verizon Proposal").

historical access charge needs), even when their own costs may be much lower.[15] As noted, this problem is at its worst where CETCs provide as many as *four* supported lines to the same household.

Neither attribute of today's funding regime advances any universal service goal: as Chairman Martin has recognized, universal service support is not designed to advance competition, but to bring affordable, quality service into areas that might otherwise not be able to support it.[16] Indeed, the Chairman has suggested that it may be worth considering an actual-cost standard, to ensure that CETCs are not being over-compensated with universal service dollars.[17] Freezing the dollars CETCs receive at current levels — even on a supposedly interim basis — will only make reform of such funding harder in the long run. Moreover, even on an interim basis, continuing this funding is indefensible: as we show below, there are discrete, concrete measures the Joint Board can and should recommend to reduce those dollars and quickly relieve the burden on consumers, even before — and as a prelude to — launching broader reform initiatives.

A second and related concern is that a freeze could preclude the Commission from ensuring that funding is "sufficient . . . to preserve and advance universal service" and "to achieve the purposes" of the Act.[18] Whether some portions of universal service funding meet that test today is questionable, given fundamental flaws in the Commission's approach to assessing comparability.[19] But it is absolutely clear that explicit funding *must* increase when and as the Commission moves to reform intercarrier compensation. And the day of reckoning is near: the access charge regime and other sources of implicit support are eroding ever more rapidly, and ILECs in high-cost areas can no longer rely on those diminishing revenues to subsidize their services. As we have shown in our advocacy on behalf of the Missoula Plan, increasing explicit support (together with phased-in increases in end-user charges) is the only means of transitioning from decades of reliance on access charges without causing rate shock to vulnerable consumers or destabilizing universal service.

[15] Similarly, CALLS funding has now exceeded the $650 million target associated with its original goal of access-charge replacement. There is no reason that CALLS funding should have been expanded beyond its original size, and it can be easily brought back down to a reasonable level.

[16] Martin En Banc Statement at 3, 6 ("Universal service is not about competition. It is about providing service to those in areas where competition and market forces alone will not result in the services available in more urban areas of the country.").

[17] Martin En Banc Statement at 6-7.

[18] 47 U.S.C. § 254(b)(5), (e); *see also Qwest Commc'ns Int'l, Inc. v. FCC*, 398 F.3d 1222, 1234 (10th Cir. 2005) (holding that, in determining whether universal service funding is "sufficient," the Commission must consider all of the principles enumerated in section 254 of the Act).

[19] *See, e.g., Qwest*, 398 F.3d at 1234-37.

A plan that has at its heart the notion of "freezing" support levels while ignoring that certain carriers are chiefly responsible for the growth of the fund would be in direct tension with such sorely needed reform. Even on an interim basis, such a crude "freeze" could delay — or even block — intercarrier compensation reform, and it would keep ILECs serving high-cost areas trapped in a spiral in which access revenues and other implicit support erodes while their most lucrative customers are captured by CETCs, VoIP providers, and others in a position to "cream skim" in rural and high-cost areas.[20] A freeze would disserve not only immediate universal service needs. It also would deter broadband investment in rural and high-cost areas, investment Chairman Martin has called a priority.[21] Significant investment in broadband next-generation infrastructure cannot be justified when support for even basic services and the underlying infrastructure is uncertain, and when broadband services such as VoIP threaten to further increase access charge erosion. Indeed, if the underlying transport network is not supported, it may not even be practically possible to provide high-quality broadband services.

In short, "freezing" the fund at present-day levels without targeting the source of runaway growth is at odds with the flexibility the Joint Board and the Commission need to address fundamental universal service objectives. The Joint Board cannot blind itself to these concerns in its short-term proposal. Any steps taken today will be harder to undo tomorrow and could take the industry further away from, rather than toward, its ultimate reform goals.

- *The interim solution is not an end in itself, but should instead serve as a transition to a more rational regime.* It is clear that long-term, substantial reform of high-cost universal service funding is needed. It is less clear how, precisely, such reform should be achieved. For example, the Joint Board has heard presentations on reverse auctions, which could prove to be an efficient and effective way to implement reform.[22] That question and other proposals present complex issues that will require careful analysis by the Joint Board and the Commission. In the interim, however, there is growing recognition that, regardless of its *form*, any solution must be designed to achieve certain

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[20] As the Commission has recognized, there is potential for cream skimming in high-cost areas because competitive carriers may seek ETC designation in a disproportionate share of the higher-density wire centers in an incumbent LEC's service area. *See* Report and Order, *Federal-State Joint Board on Universal Service*, 20 FCC Rcd 6371, 6392-93 ¶ 49 (2005) ("*ETC Order*"). Such ETCs would thus have lower costs than the ILEC, and yet receive compensation that reflects the ILECs' costs of serving the *entire* service area, including the higher cost areas. *Id.* As the Commission has noted, "ETCs could target the rural incumbent LEC's customers in the lowest cost areas and also receive support for serving the customers in these areas." *Id.*

[21] Martin En Banc Statement at 2-3.

[22] *See, e.g.*, Verizon Proposal at 5-9 & Appendix A; Letter from Paul Garnett, CTIA to Marlene Dortch, FCC, WC Docket No. 05-337 (filed Jan. 23, 2007) ("CTIA Proposal").

core goals: (1) ensuring that *one* provider offers affordable, high-quality service in *high-cost* areas that are otherwise unable to support such service; (2) advancing broadband deployment in such areas, so that today's deployment gap does not become an impassable chasm; and (3) clearing the way for the Commission to tackle intercarrier compensation reform and the erosion of implicit support.

The Joint Board need not and should not prejudge the question of long-term reform. However, the interim solution the Joint Board recommends to manage the fund should not *prejudice* these fundamental goals, and should, as much as possible, position the industry to implement longer-term reform consistent with these principles and with the least disruption.

To achieve this, the Joint Board should recommend creation of headroom in the fund that will allow the fund to continue meeting critical universal service needs and facilitate the Joint Board's and the Commission's pursuit of long-term universal service goals, such as broadband deployment measures and intercarrier compensation reform. Thus, as noted, any forward-looking interim measure should include key reductions in the most obviously oversized elements of high-cost funding.

By the same token, any interim solution adopted now should begin preparing the industry for a possible move away from a multi-carrier support system. As Chairman Martin has observed, the key goal of universal service is providing service where the competitive marketplace has failed — not to create a false competitive marketplace by funding competition.[23] But whether or not the Joint Board adopts this view, it makes little sense to continue to allow the number of universal service recipients to multiply at a time when the Board is considering solutions such as reverse auctions, that would head in the precise opposite direction toward a single carrier-of-last-resort scenario. Otherwise, the problem will only grow worse in the interim, and a one-carrier solution will become increasingly disruptive.

It also is critical that the Joint Board not make recommendations for the short term that could directly or implicitly inhibit its consideration of (or the Commission's ability to adopt) long-term reforms. In particular, the Joint Board should make clear that its short-term solution — no matter its form — is not intended to lock into place any existing features of today's cost-assessment or support-allocation regime. In the short term, there is no choice but to use the existing regime to allocate funds and assess costs. But that regime is flawed and long due for an overhaul, and this cannot be ignored in the rush to craft a short-term solution or a next-generation regime based on auctions or any other mechanism. In particular, there are many high-cost areas served by non-rural carriers that receive no funding at all today under

[23] Martin En Banc Statement at 3, 6.

the Commission's skewed comparability test, generally because they are located in states that have a few urban areas that affect statewide average costs.[24] But as AT&T has argued in the still-pending Tenth Circuit Remand proceeding, this deprives consumers in some areas of badly needed support, and carriers in those areas — faced with eroding access charge support — face a growing challenge in trying to provide service. While a short-term solution will inevitably be based on the funding that is already allocated based on statewide costs, universal service will suffer badly if the "comparability" test is not soon fixed to focus on costs in narrower geographic areas, such as wire centers or Census Block Groups.[25] The Joint Board also must finally consider how to ensure that the universal service regime addresses the "affordability" principle that Congress endorsed in Section 254[26] — by recommending decisively that support be provided in a manner that actually produces affordable rates for consumers in high-cost areas. The current fund fails to achieve this, and the Joint Board should make clear that nothing about its short-term solution or recommendations effectively precludes such reform. It is critical not to lose sight of or prejudice these long-term reform goals by the steps the Board takes today.

AT&T's proposal, described in detail below, incorporates and advances all these principles. The one-year, interim solution imposes a moratorium on consideration of ETC applications for federal high-cost funding as well as a freeze on line counts for wireless ETCs. This relief targets the most significant sources of fund growth without imposing the crude tool of freezing actual dollars. Indeed, rather than simply freeze the fund, AT&T's proposal includes $200 million in targeted reductions to certain components of the fund that are easily reduced and are indefensibly high. These adjustments will provide headroom in the fund that will allow the Commission to implement much-needed universal service reform, including intercarrier compensation reform and implementation of broadband incentive policies, even while it continues to meet critical universal service needs. Finally, without committing the Joint Board or the Commission to any particular solution or long-term plan, our proposal begins to prime the industry for a possible transition to a one-network-provider system — one in which universal service dollars fund critical services at *affordable* rates in areas that need the support most badly, and not artificial competition.

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[24] *See, e.g.*, Joint Brief of Petitioners Qwest Commc'ns Int'l, Inc. and SBC Commc'ns Inc., *Qwest Commc'ns Int'l, Inc. v. FCC*, Docket Nos. 03-9617 & 04-9518, at 55-56 (10th Cir. Aug. 5, 2004).

[25] This is a particular drawback of Verizon's longer-term plan, which would provide no future funding to areas that do not receive high-cost funding today. Verizon Proposal at 5. CTIA's plan shares a similar flaw, locking into place the rule that wireless ETCs are compensated based on the incumbent's geographic service area, even if the wireless ETC serves customers with far lower costs. CTIA Proposal at 9.

[26] 47 U.S.C. § 254(b)(1) (providing that "[q]uality services should be available at just, reasonable, and affordable rates").

ELEMENTS OF INTERIM RELIEF PROPOSAL

1. ***Freeze on ETC Applications***

The Joint Board should recommend a one-year moratorium on the grant of ETC applications for federal high-cost funding at both the federal and state levels.[27] This step, alone, would considerably slow the expansion of the federal fund: it is beyond debate that the fund's most rampant growth over the past few years is directly attributable to increased support for competitive ETCs. Indeed, while payments to CETCs have grown by more than one hundred percent per year since 2002, payments to incumbent LECs have remained relatively flat during that same period.[28] As noted above, CETC payments reached a billion dollars in 2006 and could reach over $*1.5 billion* in 2007.[29] Pending applications before the Commission alone could increase CETC support to nearly $*2.5 billion* by 2009,[30] to say nothing of applications pending before state commissions.

This step could be taken immediately and would result in significant efficiency gains. A moratorium on consideration of *all* ETC applications for federal high-cost funding is a bright-line rule that can be implemented without any careful line drawing or exercises of administrative judgment. And freezing the universe of ETCs for a one-year period will have a maximal impact on fund growth, targeting it at its source, while having minimal if any impact on universal service itself. New ETCs typically do not deliver service to areas where there is none: to the contrary, as discussed previously, multiple study areas have at least four CETCs, and a handful even have sixteen or more; several hundred study areas have at least two or three CETCs — in addition to the incumbent. An interim application freeze would therefore have no effect on the availability of core, supported services to consumers.

2. ***Impose a Targeted Supported Lines Freeze***

The Joint Board should recommend imposition of a one-year freeze on the number of lines for which wireless ETCs may recover universal service support.[31] The ever-expanding number of new lines added by wireless CETCs, in particular, is a drain on the federal fund, and adoption of a line-count freeze would significantly constrain the rapidly ballooning size of the fund.

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[27] Of course, this rule would not apply in those rare circumstances where an area is entirely unserved and a primary ETC must be designated. Nor would it apply to changes in ETC status that result from an acquisition.

[28] Martin En Banc Statement at 4.

[29] Martin En Banc Statement at 4-5; *see also* Martin En Banc Presentation Slides at 4.

[30] Martin En Banc Statement at 5; Martin En Banc Presentation Slides at 4.

[31] This freeze would not apply to new Lifeline lines.

Like the application moratorium, this interim measure would be easy to administer. No change would be necessary in any of the complex formulas used to determine the per-line amount of universal service funding to which each carrier is entitled. The wireless line freeze would simply be implemented in the last step of the process to calculate each carrier's aggregate entitlement to universal service funding. Specifically, for the one-year interim relief period, a wireless carrier's aggregate funding would be calculated by multiplying the relevant per-line amount by the line count the carrier submitted immediately prior to the effective date of the order adopting the interim solution, rather than by the carrier's current line count. As a result, the aggregate amount of universal service funding distributed to each wireless carrier would no longer grow as carriers gain lines.

This short-term differentiation among technologies and providers is necessary as an interim solution until the Commission adopts a long-term reform plan. Line growth is primarily a wireless CETC phenomenon,[32] and controlling for such growth is the most targeted, and thus most defensible, means of stabilizing the fund without disrupting fundamental universal services. In the longer term, as part of its broader reform plan, the Commission can and should consider how best to ensure that universal service is used to fund core service to all households rather than, *e.g.*, multiple providers to the same household. At the same time, the Commission also should specifically explore how best to ensure that mobile service is deployed in rural areas.

3. ***Reduce Support Provided by Universal Service Funds Designed to Replace Access Charges***

The Joint Board should endorse a 25% reduction in access charge replacement funding to ETCs that neither have, nor have ever had, an entitlement to access charges, and thus do not share incumbents' historical reliance on such support. As Chairman Martin has recognized, compensating CETCs based on the costs of incumbent LECs makes little sense.[33] This is a long-standing problem that must be addressed in overall reform. But the interim change AT&T proposes here would at least begin to target one part of this problem — and would do so in a manner that not only could be easily and immediately implemented, but also would reduce the size of the fund significantly.

As the Commission has decisively found, wireless carriers (including wireless ETCs) have no right to impose access charges.[34] Further, wireless ETCs do not share wireline incumbents' historical reliance on access charges as a primary means of supporting their networks. These two factors, taken together, make it particularly indefensible that wireless ETCs are permitted to share in those discrete portions of universal service high-cost funding that are *specifically designed to replace access*

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[32] *See, e.g.*, Martin En Banc Statement at 4-5.

[33] Martin En Banc Statement at 6-7.

[34] *See* Declaratory Ruling, *Petitions of Sprint PCS and AT&T Corp. for Declaratory Ruling Regarding CMRS Access Charges*, 17 FCC Rcd 13192, 13192, 13196 ¶¶ 1, 8-9 (2002).

charges that have been eliminated. Carriers that have suffered no harm from the Commission's access charge reform should not reap a universal service windfall from the relief specifically designed to minimize the impact of such reform.

The funds in question are the (1) Interstate Access Support (IAS), which was created through the CALLS plan and is intended to replace implicit subsidies once present in price-cap carriers' access charges; (2) Interstate Common Line Support (ICLS), which was created through the MAG plan and is intended to replace the implicit subsidies in rate-of-return carriers' access charges; and (3) Local Switching Support (LSS), which is intended to replace DEM weighting charges that were once included in small rural carriers' access charges.

If this reform were adopted immediately and in full, it would result in an immediate reduction of nearly $520 million in the size of the federal fund. However, AT&T recommends that the Joint Board propose a reduction of 25%, which will move the fund in the right direction, without requiring a more drastic, substantial step.[35] At such time as the Commission begins to institute reforms that require additional funding, the Joint Board can endorse further reductions as appropriate.

4. ***Correct the Sizing of the Interstate Access Support Fund***

The Joint Board should recommend that the Commission correct a flaw in the way that it calculates all carriers' entitlements to Interstate Access Support. When the CALLS fund was created in 2000, the Commission established a target size of $650 million for that fund.[36] It is now approximately $725 million. This results from what appears to be a plain implementation error.

When the algorithm used to determine carriers' IAS funding entitlements was designed, per-line support was intended to be calculated by dividing the amount of support targeted to a given study area by *all* eligible industry lines in that study area, adjusted for the nationwide annual growth in industry lines.[37] The regulation adopted by

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[35] A carrier's entitlement to such support is calculated separately from the carrier's entitlement to other universal service funding, so it should be a simple matter to adjust the amount some carriers receive. And the reduction in funding would be easy to operationalize; the Commission could, for example, calculate a carrier's entitlement to IAS, ICLS, or LSS support the same way that it does now, but reduce by 25% the amount of funding that is actually distributed to the carrier under each program.

[36] *See* Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, and Eleventh Report and Order in CC Docket No. 96-45, *Access Charge Reform*, 15 FCC Rcd 12962, 13046-49 ¶¶ 201-05 (2000) ("*CALLS Order*"), *aff'd in relevant part sub nom. Texas Office of Pub. Util. Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001); *see also* 47 C.F.R. § 54.801(a).

[37] *See* 47 C.F.R. § 54.807; *see also CALLS Order*, 15 FCC Rcd at 13049 ¶ 206 & n.460 ("To maintain the $650 million cap, the distribution formulas also account for growth in the number of lines eligible to receive universal service support during the course of the year. . . . . If reported line growth were to exceed projected line growth, the interstate access universal service support mechanism could slightly exceed $650 million in a particular year. If reported line growth is less than projected line growth, the

the Commission expressly reflects that intent, providing that per-line support is to be calculated by dividing the amount of targeted study area support by "*all eligible* telecommunications carriers' base period lines in that study area adjusted for growth during the relevant support period based on the average nationwide annual growth in *eligible lines* during the three previous years. For the purpose of calculating growth, the Administrator shall use a simple average of annual growth rates for *total switched access lines* . . . ."[38] To implement this formula, the regulation directs carriers to a report supposedly containing the relevant data. However, the table referenced in the regulation incorrectly documents line-count statistics for only *ILEC lines*, and not industry lines generally.[39]

This discrepancy is not explained or documented in any of the supporting materials and was apparently entirely inadvertent. However, this minor error has had a significant effect on the size of the IAS fund. As ETCs have been increasingly receiving IAS funding, the number of supported IAS lines has grown, but the denominator in the funding calculation has not kept pace with that growth, causing the per-line amount to expand disproportionately. If the growth factor in the denominator were fixed to match the growth in industry lines, instead of just ILEC lines — as would be the case if the rule were followed literally and the correct data were used — the fund would drop substantially closer to the $650 million target the Commission initially approved, and growth in this fund would be controlled going forward. The Joint Board should recommend that the Commission take this opportunity to correct this technical error and direct parties to the relevant data rather than the ILEC-only data. This not only would more accurately implement the Commission's and the CALLS signatories' original intent, but also would reduce the size of the universal service fund.

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interstate access universal service support mechanism could be slightly below $650 million in a particular year.").

38 *See* 47 C.F.R. § 54.807(b) (emphasis added) (setting out the per-line support calculation for study areas in which the price-cap ILEC has not established state-approved geographically deaveraged rates for UNE loops); *see also id.* § 54.807(c) (setting out a similar calculation for study areas in which the price-cap ILEC *has* established such deaveraged rates for UNE loops).

39 *See, e.g.,* Federal Communications Commission, Common Carrier Bureau, *Statistics of Communications Common Carriers*, at 209, "Table 4.10 — Selected Operating Statistics of Reporting Incumbent Local Exchange Carriers, 1984-2000" (Sept. 2001). The Commission's rules for calculating per-line support refer to the relevant table as "Table 6.10—Selected Operating Statistics," but the table currently used is "Table 4.10—Selected Operating Statistics of Reporting Incumbent Local Exchange Carriers." The content in Table 6.10 was moved to Table 4.10 in August 2000, and the name of the table was modified to refer specifically to ILECs in September 2001. *Compare id. with* Federal Communications Commission, Common Carrier Bureau, *Statistics of Communications Common Carriers*, at 253, "Table 6.10 — Selected Operating Statistics, 1984-1998" (Dec. 1999), *and* Federal Communications Commission, Common Carrier Bureau, *Statistics of Communications Common Carriers*, at 205, "Table 4.10 — Selected Operating Statistics, 1984-1999" (Aug. 2000).

Adoption of AT&T's interim proposal would immediately arrest the dramatic growth in the size of the universal service fund. In addition, it would *remove* $200 million through targeted reductions designed to ensure that funding is used to serve the core goals of universal service. Although this will mean that all carriers — including AT&T, a major ILEC and one of the largest wireless carriers providing CETC services — will need to shoulder at least a short-term reduction in certain funding, this is a small price to pay for stabilization and for progress toward more fundamental reform.

AT&T's proposal is designed to be in place for a one-year interim period, and could be extended for a single year on the explicit condition that the Commission adopt long-term reform by the end of that second year. The Joint Board should endorse these measures — including specifically the sunset and deadline for long-term reform — as the most comprehensive, forward-looking basis for immediate stabilization of the fund, and as a guarantee that the Commission will embark on the path toward broader reform.

Sincerely,

Robert W. Quinn Jr.

cc: Chairman Kevin J. Martin
Commissioner Jonathan Adelstein
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Hon. Lisa Polak Edgar
Hon. Larry S. Landis
Hon. John D. Burke
Hon. Billy Jack Gregg
Daniel Gonzalez
Michelle Carey
Ian Dillner
Scott Bergmann
Scott Deutchman
John Hunter
Thomas Navin
Donald Stockdale
Amy Bender
Jeremy Marcus
Vickie Robinson
Ted Burmeister
Katie King
Gary Seigel
Phil Nyegaard
Jacob Williams
Jennifer A. Richardson
Peter Bluhm
Peter A. Pescosolido
Joel Shifman
Jeff Pursley
Lori Kenyon
Aram Shumavon
Eric Seguin
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Michael H. Lee
Philip McClelland
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