

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

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

**THE REPLY COMMENTS OF
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Pennsylvania Public Utility Commission (PaPUC) is filing these Reply Comments with the Federal Communications Commission’s (“FCC”). These Reply Comments address Public Notice at WC Docket No. 05-337 and CC Docket No. 96-45, *Recommended Decision of the Federal-State Joint Board on Universal Service*, adopted April 26, 2007, released May 1, 2007.¹

The FCC seeks input, primarily, on a proposed interim, emergency cap on the amount of high-cost support that Competitive Eligible Telecommunications Carriers (CETCs) would receive in each state. The proposed cap would base support on the average level of competitive support distributed in 2006.

The PaPUC’s Reply Comments are limited to the proposed interim, emergency cap on high-cost support. The FCC is seeking more comprehensive reforms in another proceeding underway in CC Docket No.

¹ The FCC later extended the period for filing Reply Comments from June 13, 2007 to June 21, 2007. *In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45 (June 12, 2007).

96-45.²

² *Federal-State Joint Board on Universal Service Seeks Comment on Long-Term, Comprehensive High-Cost Universal Service Reform*, WC Docket No. 05-337, CC Docket No. 96-45, Comment and Reply Comment dates of May 31, 2007 and July 2, 2007, respectively.

The PaPUC Reply Comments

The PaPUC appreciates the opportunity to respond to the proposed interim, emergency price cap. The PaPUC Reply Comments should not be construed as binding on the PaPUC or individual commissioner in any proceeding before the PaPUC. The PaPUC Reply Comments could change in response to subsequent events.

The PaPUC supports the proposed interim emergency cap on high-cost universal service support. The PaPUC also proposes extension of the interim freeze to all support, including rural carrier support, for several reasons.

The PaPUC believes that an interim, emergency freeze on all support minimizes the growth in costs paid for by Pennsylvania's carriers and consumers. A uniform emergency freeze that limits support to the amounts received in 2006 treats competitors and incumbents alike. A uniform emergency freeze avoids any issues about exogenous event revenue and rate recovery for regulated telephone utilities operating in states with price cap regimes. Finally, a uniform emergency freeze provides an incentive to every recipient to propose realistic solutions.

The PaPUC makes this proposal because the PaPUC shares the concern of other states about the costs for a greatly expanded federal support fund. The PaPUC also shares the concern of net recipients, particularly the rural carriers, that this growth in federal support may undermine the support given to rural carriers even though the CTECs do not have identical service obligations. CTECs are not required to provide service ubiquitously throughout a rural carrier's study area. CTECs are not required to undertake expensive broadband deployment commitments under state law.

The PaPUC makes this proposal even though Pennsylvania has carriers that are net recipients of federal support. Pennsylvania also has

significant net contributors to the federal Universal Service Fund (USF), and overall is a net contributor state. The PaPUC's experience with net contributors and net recipients gives the PaPUC a particularly important perspective on federal USF support mechanisms and required monetary amounts.

The PaPUC's experience is that federal USF support is, inevitably, recovered from end-user consumers as an increased cost in one form or another. And, as set out below, increased costs are undermining overall penetration rates for telecommunications services, particularly in Pennsylvania.

Pennsylvania's estimated contribution to the federal support fund was \$124,976,000 more than the amount that Pennsylvania carriers received from the federal USF in 2006.³ Pennsylvania's rural did get \$151,884,000 or 2.33% of the total federal support. However, Pennsylvania's non-rural carriers contributed \$276,859, 000 or 4.19% of total federal support. In sum, federal USF support costs Pennsylvania's end-user consumers \$124,976,000. This represents 1.86% of the total federal support even though Pennsylvania only generated 4.14% of the total in national telecommunications revenues in 2004.⁴

The PaPUC is very concerned about the growth in the high-cost mechanism, and in particular the growth in support attributed to CETCs. The PaPUC is concerned that without a freeze on CETC support distributions Pennsylvania's net contributor role to the federal USF will greatly increase. By the same token, however, the PaPUC is sensitive to the needs of rural carriers and the role that federal support plays in keeping rural rates just and reasonable under state and federal law.

³ *2006 USF Report*, Table 1.12, p. 1-37.

The PaPUC supports the proposed interim emergency freeze on CTEC federal support. An important factor driving the expansion in the size of the federal USF is support for CETCs that are not subject to the same conditions as other incumbent carrier recipients.

By the same token, the PaPUC believes that federal support for rural local exchange carriers (RLECs) should also be frozen. A freeze on all support limits the cost to end-users while providing every recipient with an incentive to propose realistic and concrete solutions.

However, the PaPUC opposes any freeze that reduces federal support for rural carriers. Rural carriers have complex rate structures that rely on federal support. Rural carriers have different obligations as well. These include the obligation to provide service ubiquitously throughout their respective study areas and to expand broadband deployment. CTECs do not have these obligations.

Any reduction in federal support could undermine the rural carriers' ability to meet these obligations. In addition, any reductions in federal USF support for rural incumbent local exchange carriers (ILECs) with "exogenous event" provisions in their respective alternative price cap regulation plans in various states holds the potential of triggering "revenue neutral revenue recovery" of "lost" federal USF support on the state level. Depending on the state, a carrier could claim that reduced federal support is an "exogenous event" that should be recovered from in-state rates including basic local exchange rates for legacy copper-based services. A freeze, on the other hand, does not reduce support and forecloses any effort to get in-state revenue and rate increases to cover federal support reductions.

⁴ *2006 USF Report*, Tables 1.12 and 1.13, p. 1-37 and 1-38.

The PaPUC does not believe that an interim emergency solution should constitute a basis for significant in-state revenue and rate increases. Intrastate revenue and rate increases including local rate increases that are attributable to federal universal service reform could undermine the very efforts of both the FCC and state public utility commissions to preserve and enhance universal service under both federal and state law.

By contrast, a uniform freeze on all federal USF support preserves existing levels and avoids the intrastate issues of “exogenous event” revenue and rate treatment. A uniform freeze does not harm current recipient expectations. However, the current recipient now has an incentive to propose realistic solutions to the escalating federal USF support requirement problem.

For these reasons, the PaPUC suggests a uniform freeze on all federal support given to all recipients. A uniform freeze limits federal support. This is particularly important given the decline in overall penetration rates for telecommunications from 2001 to 2005 in Pennsylvania during the very time that these federal USF costs expanded. Pennsylvania’s household telephone penetration rate went from 97.8% in 2001 to 97.2% in 2004.⁵ This penetration rate decline is evident along economic and racial lines as well.

The percentage of Pennsylvanians with \$10,000-\$19,999 in income and a telephone declined from 96.7% in 2001 to 93.8% in 2005. The percentage of Pennsylvanians earning \$20,000 to \$29,999 and with a telephone declined from 98.7% in 2001 to 95.9% in 2005. The percentage of Pennsylvanians with a telephone and an income of \$30,000 to \$39,999 also declined from 97.8% in 2001 to 97.7% in 2005.⁶

⁵ *2006 USF Report*, Table 6.4, p. 6-14.

⁶ *2006 USF Report*, Table 6.14, p. 6-66.

The overall decline in penetration is evident along racial lines. The percentage of African-Americans with an income of \$10,000 to \$12,499 and a telephone went from 86.0% in 2001 to 85.1% in 2005. The percentage of Hispanic-Americans with the same income and with a telephone declined from 85.8% in 2001 to 84.7% in 2005.⁷ Telephone penetration rate for whites with a similar income and a telephone went from 91.1% in 2001 to 90.4% in 2005.⁸

There was a particularly noticeable decline in penetration for all racial groups with incomes between \$30,000 and \$34,999 during the 2001 to 2005 time period.⁹ Penetration rates for African-Americans with this income level and a telephone went from 95.3% in 2001 to 90.7% in 2005. The corresponding figures for Hispanics with a telephone and the same income level went from 94.9% in 2001 to 91.1% in 2005. Finally, penetration rates for whites with a telephone at this income level declined from 97.0% in 2001 to 95.1% in 2005.¹⁰

Moreover, the total number of ILEC loops in Pennsylvania declined from 8,301,408 in 2001 to 7,345,084 in 2004.¹¹ The PaPUC proposes a uniform freeze on all net federal USF support recipients because of the increased costs to Pennsylvanians, particularly given that 97% of the 235% growth in USF support received by CTECs from 1999 through 2005 went to wireless carriers.¹² However, wireless carriers do not have the same “ubiquitous service” obligations as net recipient rural carriers.

⁷ *2006 USF Report*, Table 6.10, pp. 6-39 and 6-42, respectively.

⁸ *2006 USF Report*, Table 6.10, pp. 6-39 and 6-42, respectively.

⁹ *2006 USF Report*, Table 6.10, pp. 6-39 and 6-42, respectively.

¹⁰ *2006 USF Report*, Table 6.10, p. 6-39 and 6-42, respectively.

¹¹ *2006 USF Report*, Tables 6.4 and 3.20, p. 6-14 and 3-32, respectively.

¹² Pennsylvania Public Utility Commission, *Missoula Plan Workshop Public Hearing*, Docket No. M-00061972, Presentation of Gary Zingaretti, Rural Telephone Company Coalition, September 11, 2006, p. 187.

To minimize the cost of service from end-user consumers for the federal USF, the PaPUC suggests that incumbent ETCs be included within the proposed interim, emergency cap even if their support has remained relatively stable. A comprehensive approach minimizes future costs for all USF support while taking an even-handed approach to competitors and incumbents alike.

An even-handed approach that freezes support for all recipients at their current level on an interim, emergency basis also avoids that “poisoning of the well” feared by Commissioner Copps’ in his dissent.¹³ This even-handed approach gives competitors and incumbents a mutual interest in proposing the solutions needed for the long-term.

¹³Dissenting Statement Of Commissioner Michael J. Copps, *In the Matter of High-Cost Universal Service Support*, WC Docket No. 05-337; Federal-State Joint Board on Universal Service, CC Docket No. 96-45, May 1, 2007.

Respectfully submitted,

Joseph K. Witmer, Esq.
Assistant Counsel,
Pennsylvania Public Utility

Commission

Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-3663
Email: joswitmer@state.pa.us