



GOVERNMENT OF THE VIRGIN ISLANDS
OF THE
UNITED STATES

—0—
Public Services Commission
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Received & Inspected

FEB 13 2008

FCC Mail Room

February 11, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: **WC Docket No. 05-337, CC Docket No. 96-45, Impact of the Federal-State Joint Board on Universal Service's Recommended Decision for Capping Universal Service Funds And Request for Exemption by the Virgin Islands**

Dear Ms. Dortch:

Please forward the attached letter to Chairman Martin.

Thank you for your assistance.

Sincerely,

Joseph B. Boschulte
Chairman

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FEB 13 2008

FCC Mail Room

February 12, 2008

Mr. Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street SW, Room: 8-B201
Washington, DC 20554
Fax: 1-866-418-0232
Email: KJMWEB@fcc.gov

Via Federal Express Mail

Re: WC Docket No. 05-337, CC Docket No. 96-45, Impact of the Federal-State Joint Board on Universal Service's Recommended Decision for Capping Universal Service Funds And Request for Exemption by the Virgin Islands

Dear Chairman Martin:

It has come to my attention that the FCC is about to take action on the Federal-State Joint Board on Universal Service's Recommended Decision, recommending a cap on universal service support being provided to competitive Eligible Telecommunications Carriers. The urgency of this situation, and its significant impact on the consumers of the Territory, compel a response from me, as Chair of the Virgin Islands Public Services Commission. It is important to note that this Commission has only, within the last two months, received authority to designate eligible telecommunications carriers, and the Commission as a whole has not had the opportunity to consider the Joint Board's recommendation.

On May 1, 2007, the Joint Board released its recommendation that a cap be established for each state, at the level of support received by competitive ETCs in 2006. If the FCC decides to follow this recommendation, we ask that the United States Virgin Islands be exempted from the cap, in order to preserve the goals embodied in Section 254(b)(3) of the Telecommunications Act of 1996.

In the past, the Public Services Commission took a conservative approach to the limits of its authority to designate a carrier as an ETC. On December 22, 2007, new legislation was enacted, expressly granting the VIPSC this power. Historically, the Virgin Islands Public Service Commission has interpreted its enabling statutes to exclude jurisdiction over wireless competitive local exchange carriers. As a result, there were no state-designated competitive ETCs in the U.S. Virgin Islands in 2006.

Letter from VIPSC Chair Boschulte to FCC Chair Martin

Re: Proposed USF Cap

February 11, 2008

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If the USF is capped at the 2006 level by state, any competitive carrier certified by the VIPSC, under the recently enacted legislation, would be barred from receiving any level of universal service funding. Clearly, this would have a chilling effect on the growth of infrastructure in non-serviced and underserved areas in the Territory. This result is contrary to the ideals of universality, which require that "consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services ... that are reasonably comparable to those services provided in urban areas."

The FCC issued an NPRM on May 14, 2007, asking for comments by June 21, 2007, on the Joint Board's recommendations. Because the VIPSC lacked the specific authority to grant ETC designations to wireless carriers at that time, no comments were filed. Although one petition seeking designation had been filed, that party was also then, seeking designation through the FCC based on Virgin Islands precedent. However, since the new legislation was enacted, the Commission has been moving swiftly to act on the petition for designation. The possibility of Joint Board's recommended cap being imposed on the Virgin Islands, at the very time that it first has the ability to designate a competing ETC, would clearly frustrate the fundamental purposes of the USF.

Therefore, I strongly urge the Federal Communications Commission to be mindful of the impact of its decisions on the U.S. Virgin Islands, which has only recently begun to review ETC applications. Further, I ask that in making your determination, that you exclude the U.S. Virgin Islands from these recommendations, as a means of promoting the ideals of both competition and universality in the Territory.

Should you have any questions or concerns, or require additional information, do not hesitate to contact me through the VIPSC's offices at 340-776-1291.

Sincerely,

A handwritten signature in black ink, appearing to read 'JB Boschulte', with a long, sweeping horizontal line extending to the right.

Joseph B. Boschulte
Chairman

Cc.: Via Federal Express Mail

Commissioner Michael J. Copps

Commissioner Jonathan S. Adelstein

Commissioner Deborah Taylor Tate

Commissioner Robert McDowell