Central Telephone Co.	PROSPECT	PRSPVAXA
Central Telephone Co.	ROCKYMOUNT	RCMTVAXA
Central Telephone Co.	RIDGEWAY	RDWYVAXA
Central Telephone Co.	RUSTBURG	RSBGVAXA
Central Telephone Co.	SO BOSTON	SBTNVAXA
Central Telephone Co.	SCHUYLER	SCHLVAXA
Central Telephone Co.	SCOTTSVL	SCVLVAXA
Central Telephone Co.	STANARDSVL	SDVLVAXA
Central Telephone Co.	SPENCER	SPNCVAXA
Central Telephone Co.	TURBEVILLE	TBVLVAXA
Central Telephone Co.	UNION HALL	UNHLVAXA
Central Telephone Co.	VOLENS	VLNSVAXA
Central Telephone Co.	VIRGILINA	VRGLVAXA
Central Telephone Co.	WOOLWINE	WLWNVAXA
Verizon South Inc. – VA	BLUEFIELD	BLFDVAXA
Verizon South Inc. – VA	ROCKY GAP	RCGPVAXA
United Inter-Mountain Telephone	AUSTINVL	ATVLVAXA
United Inter-Mountain Telephone	BLAND	BLNDVAXA
United Inter-Mountain Telephone	CANA	CANAVAXA
United Inter-Mountain Telephone	CERES	CERSVAXA
United Inter-Mountain Telephone	CHILHOWIE	CHLHVAXA
United Inter-Mountain Telephone	CMSRKELCRK	CMRKVAXA
United Inter-Mountain Telephone	CRIPPLECRK	CRCKVAXA
United Inter-Mountain Telephone	FRIES	FRISVAXA
United Inter-Mountain Telephone	GALAX	GALXVAXA
United Inter-Mountain Telephone	GLADE SPG	GDSPVAXA
United Inter-Mountain Telephone	HILLSVILLE	HLVLVAXA
United Inter-Mountain Telephone	INDEPNDNCE	INDPVAXA
United Inter-Mountain Telephone	KONNAROCK	KNRKVAXA
United Inter-Mountain Telephone	LAURELFORK	LRFKVAXA
United Inter-Mountain Telephone	MARION	MARNVAXA
United Inter-Mountain Telephone	MOUTHWILSN	MTWLVAXA
United Inter-Mountain Telephone	MAXMEADOWS	MXMDVAXA
United Inter-Mountain Telephone	RICHVALLEY	RCVYVAXA
United Inter-Mountain Telephone	RURALRTRET	RRRTVAXA
United Inter-Mountain Telephone	SUGARGROVE	SGGVVAXA
United Inter-Mountain Telephone	SALTVILLE	SLVLVAXA
United Inter-Mountain Telephone	SYLVATUS	SYLVVAXA
United Inter-Mountain Telephone	WYTHEVILLE	WYVLVAXA

APPENDIX C

RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment

1. On October 7, 2005, the Wireline Competition Bureau (Bureau) released an order granting a petition of RCC Minnesota, Inc. and RCC Atlantic, Inc. (RCC) to be designated as an ETC in portions of its licensed service areas in the state of New Hampshire.[1] In its petition, RCC requested ETC designation in the entirety of the Kearsarge Telephone Company study area. However, RCC failed to include one wire center in the Kearsarge Telephone Company study area, the Meridian wire center, in the list of wire centers attached to its petition. Because RCC did not identify the Meridian wire center in the list of Kearsarge Telephone Company wire centers in its Petition, Appendix B of the *RCC Order* similarly did not include this wire center.[2] RCC has notified the Commission of this omission.[3] Inclusion of this wire center would not have changed the Bureau's analysis because RCC requested, and the Bureau granted, designation in the entire Kearsarge Telephone Company study area. Therefore, we amend Appendix B of the *RCC Order* by inserting "Meridian MRDNNHXA" in the list of Kearsarge Telephone Company service areas, following "Chichester CHCHNHXA."

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[1] *Federal-State Joint Board on Universal Service, RCC Minnesota, Inc. and RCC Atlantic, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire*, CC Docket No. 96-45, Order, 20 FCC Rcd 15833 (Wireline Comp. Bur. 2005) (*RCC Order*).

[2] *See* RCC Minnesota, Inc. and RCC Atlantic, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire, CC Docket No. 96-45, Supplemental Filing, at Exhibit C (filed Aug. 26, 2005).

[3] *See* Letter from David A. LaFuria and B. Lynn F. Ratnavale, Lukas, Nace, Gutierrez, and Sachs, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45 (filed Dec. 13, 2005).

APPENDIX D

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice*.[2] The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA.[3] This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[4]

A. Need for, and Objectives of, the Proposed Rules

2. On May 1, 2007, the Joint Board recommended that the Commission adopt an interim cap on high-cost universal service support for competitive ETCs to rein in the explosive growth in universal service.[5] We agree with the Joint Board's assessment that the rapid growth in high-cost support places the federal universal service fund in dire jeopardy. In 2006, the universal service fund provided approximately $4.1 billion per year in high-cost support.[6] In contrast, in 2001, high-cost universal service support totaled approximately $2.6 billion.[7] In recent years, this growth has been due to increased support provided to competitive ETCs, which receive high-cost support based on the per-line support that the incumbent LECs receive, rather than on the competitive ETCs' own costs. While support to incumbent LECs has been flat, or has even declined since 2003,[8] competitive ETC support, in the six years from 2001 through 2006, has grown from under $17 million to $980 million – an average annual

[1] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601-12., has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996).

[2] *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 22 FCC Rcd 9705, 9737-42 (2007) *(Notice)*.

[3] *Id.* at 9737.

[4] *See* 5 U.S.C. § 604.

[5] *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-1 (Fed.-State Jt. Bd., rel. May 1, 2007) *(Recommended Decision)* (Appendix A).

[6] Universal Service Administrative Company 2006 Annual Report, 39 (2006), available at http://www.usac.org/_res/documents/about/pdf/usac-annual-report-2006.pdf (*USAC 2006 Annual Report*).

[7] *See Universal Service Monitoring Report*, CC Docket No. 98-202, Prepared by the Federal and State Staff for the Federal-State Joint Board on Universal Service in CC Docket No. 96-45, Table 3.2 (2006) (*Universal Service Monitoring Report*).

[8] Incumbent LECs received $3.129 billion in high-cost support in 2003; $3.153 billion in 2004; $3.186 billion in 2005; and $3.116 billion in 2006. *Universal Service Monitoring Report*, at Table 3.2 (for 2003, 2004, and 2005 data); *USAC 2006 Annual Report* at 41 (for 2006 data). In 2001, much of the growth in high-cost support was attributable to removing implicit subsidies from access charges and the inclusion of these amounts in explicit universal service mechanisms adopted in the *CALLS Order* and the *MAG Plan Order*. *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*; *Low-Volume Long-Distance Users*; *Federal-State Joint Board on Universal Service,* Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000) (*CALLS Order*); *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service; Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation; Prescribing the Authorized Rate of Return From Interstate Services of Local Exchange Carriers,* Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613 (2001) (*MAG Plan Order*), *recon. pending.*

growth rate of over 100 percent.[9] Competitive ETCs received $557 million in high-cost support in the first six months of 2007.[10] Annualizing this amount projects that they will receive approximately $1.11 billion in 2007. We find that the continued growth of the fund at this rate is not sustainable and would require excessive (and ever growing) contributions from consumers to pay for this fund growth.[11]

3. We conclude that immediate action must be taken to stem the dramatic growth in high-cost support. Therefore, we immediately impose an interim cap on high-cost support provided to competitive ETCs until fundamental comprehensive reforms are adopted to address issues related to the distribution of support and to ensure that the universal service fund will be sustainable for future years. The interim cap that we adopt herein limits the amount of high-cost support that competitive ETCs can receive in the interim period to the amount they were eligible to receive in March 2008 on an annualized basis.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

4. None

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

5. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules, if adopted.[12] The RFA generally defines the term "small entity"[13] as having the same meaning as the terms "small business,"[14] "small organization,"[15] and "small governmental jurisdiction."[16] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities.[17] Under the

[9] *Universal Service Monitoring Report*, at Table 3.2; USAC 2006 Annual Report at 41.

[10] *See* Universal Service Administrative Company, *Universal Service Fund Facts – High Cost Quarterly Program Statistics; High Cost Program Support Distribution By CETCs & ILECs 1998 Through 2Q2007*, http://www.universalservice.org/_res/documents/about/pdf/fund-facts/HC%20CETC-ILEC%20Distribution.pdf (July 23, 2007).

[11] Support for the fund derives from assessments paid by providers of interstate telecommunications services and certain other providers of interstate telecommunications. *See* 47 C.F.R. § 54.706. Fund contributors are permitted to, and almost always do, pass those contribution assessments though to their end-user customers. *See* 47 C.F.R. § 54.712. Fund assessments paid by contributors are determined by applying the quarterly contribution factor to the contributors' contribution base revenues. In the second quarter of 2007, the contribution factor reached 11.7 percent, which is the highest level since its inception. *See Proposed Second Quarter 2007 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, 22 FCC Rcd 5074 (Off. of Man. Dir. 2007). The contribution factor has since declined slightly to 11.0 percent in the fourth quarter of 2007. *Proposed Fourth Quarter 2007 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 07-3928 (Off. of Man. Dir. 2007).

[12] 5 U.S.C. § 604(a)(3).

[13] 5 U.S.C. § 601(6).

[14] 5 U.S.C. § 601(3).

[15] 5 U.S.C. § 601(4).

[16] 5 U.S.C. § 601(5).

[17] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public (continued....)

Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[18] Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.[19] A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[20] Nationwide, as of 2002, there were approximately 1.6 million small organizations.[21]

6. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, is the data that the Commission publishes in its *Trends in Telephone Service* report.[22] The SBA has developed small business size standards for wireline and wireless small businesses within the three commercial census categories of Wired Telecommunications Carriers,[23] Paging,[24] and Cellular and Other Wireless Telecommunications.[25] Under these categories, a business is small if it has 1,500 or fewer employees. Below, using the above size standards and others, we discuss the total estimated numbers of small businesses that might be affected by our actions.

1. Wireline Carriers and Service Providers

7. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."[26] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.[27] We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

(...continued from previous page)
comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition in the Federal Register." 5 U.S.C. § 601(3).

[18] 15 U.S.C. § 632.

[19] *See* SBA, Programs and Services, SBA Pamphlet No. CO-0028, at 40 (July 2002).

[20] 5 U.S.C. § 601(4).

[21] Independent Sector, The New Nonprofit Almanac & Desk Reference (2002).

[22] FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, Trends in Telephone Service, Table 5.3, page 5-5 (February 2007) (*Trends in Telephone Service*). This source uses data collected as of October 20, 2005.

[23] 13 C.F.R. § 121.201, North American Industry Classification System (NAICS) code 517110.

[24] *Id.* § 121.201, NAICS code 517211 (This category will be changed for purposes of the 2007 Census to "Wireless Telecommunications Carriers (except Satellite)," NAICS code 517210.).

[25] *Id.* § 121.201, NAICS code 517212 (This category will be changed for purposes of the 2007 Census to "Wireless Telecommunications Carriers (except Satellite)," NAICS code 517210.).

[26] 15 U.S.C. § 632.

[27] *See* Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to Chairman William E. Kennard, Federal Communications Commission (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See* 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b).

8. *Incumbent LECs.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent LECs. The closest applicable size standard under SBA rules is for "Wired Telecommunications Carriers." Under that size standard, such a business is small if it has 1,500 or fewer employees.[28] According to Commission data,[29] 1,307 carriers reported that they were engaged in the provision of local exchange services. Of these 1,307 carriers, an estimated 1,019 have 1,500 or fewer employees, and 288 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our action.

9. *Competitive LECs, Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category "Wired Telecommunications Carriers." Under that size standard, such a business is small if it has 1,500 or fewer employees.[30] According to Commission data,[31] 859 carriers reported that they were engaged in the provision of either competitive LEC or CAP services. Of these 859 carriers, an estimated 741 have 1,500 or fewer employees, and 118 have more than 1,500 employees.[32] In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 44 carriers have reported that they are "Other Local Service Providers." Of the 44, an estimated 43 have 1,500 or fewer employees, and one has more than 1,500 employees. Consequently, the Commission estimates that most competitive LECs, CAPs, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities that may be affected by our action.

2. Wireless Carriers and Service Providers

10. *Wireless Service Providers.* The appropriate size standard for wireless service providers is the category of "Wireless Telecommunications Carriers (except Satellite)." Under that standard, the SBA deems a wireless business to be small if it has 1,500 or fewer employees.[33] The data necessary to estimate the number of entities in this category has not been gathered since it was adopted in November 2007. Therefore, we will use the earlier, now-superceded categories – "Paging" and "Cellular and Other Wireless Telecommunications" – to estimate the number of entities. For the census category of "Paging," Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year.[34] Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.[35] Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of "Cellular and Other Wireless Telecommunications," Census Bureau data for 2002 show that there were 1,397 firms in this

[28] 13 C.F.R. § 121.201, NAICS code 517110.

[29] *Trends in Telephone Service* at Table 5.3.

[30] 13 C.F.R. § 121.201, NAICS code 517210.

[31] *Trends in Telephone Service* at Table 5.3.

[32] *Id.*

[33] 13 C.F.R. § 121.201, NAICS Code 517210.

[34] U.S. Census Bureau, 2002 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms for the United States: 2002, NAICS code 517211 (issued Nov. 2005).

[35] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1000 employees or more."

category that operated for the entire year.[36] Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.[37] Thus, under this second category and size standard, the majority of firms can, again, be considered small.

11. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for "Wireless Telecommunications Carriers (except Satellite)." Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.[38] The data necessary to estimate the number of entities in this category has not been gathered since it was adopted in November 2007. Therefore, we will use the earlier, now-superceded categories of "Cellular and Other Wireless Telecommunications" to estimate the number of entities. According to Commission data, 432 carriers reported that they were engaged in the provision of wireless telephony.[39] We have estimated that 221 of these are small under the SBA small business size standard.

3. Satellite Service Providers

12. *Satellite Telecommunications and Other Telecommunications.* There is no small business size standard developed specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of "Satellite Telecommunications" and "All Other Telecommunications."

13. The first category of "Satellite Telecommunications" "comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."[40] Under this category, the SBA size standard is $13.5 million or less in aveage annual receipts.[41]For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year.[42] Of this total, 307 firms had annual receipts of under $10 million, and 26 firms had receipts of $10 million to $24,999,999.[43] Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

14. The second category of "All Other Telecommunications" "comprises establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and

[36] U.S. Census Bureau, 2002 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms for the United States: 2002, NAICS code 517212 (issued Nov. 2005).

[37] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1000 employees or more."

[38] 13 C.F.R. § 121.201, NAICS Code 517110.

[39] *Trends in Telephone Service* at Table 5.3.

[40] U.S. Census Bureau, 2002 NAICS Definitions, "517410 Satellite Telecommunications"; http://www.census.gov/epcd/naics02/def/NDEF517.HTM.

[41] 13 C.F.R. § 121.201, NAICS codes 517410.

[42] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 517410 (issued Nov. 2005).

[43] *Id.* An additional 38 firms had annual receipts of $25 million or more.

capable of transmitting telecommunications to or receiving telecommunications from satellite systems."[44] The SBA size standard for "All Other Telecommunications" is $23.0 million or less in average annual revenues.[45] For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year.[46] Of this total, 259 firms had annual receipts of under $10 million and 15 firms had annual receipts of $10 million to $24,999,999.[47] Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

15. In order to qualify for the exception to the interim cap, some small carriers serving tribal lands or Native Alaskan regions will be required to file certifications that they qualify for the exception. Other small carriers may qualify for an exception if they file data reporting their costs of serving high-cost areas for which they seek the exception to be applied.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

16. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for small entities.[48]

17. In adopting the interim cap, the Commission considered several alternatives to minimize the cap's effect on small entites. We adopt an exception to the rule for carriers providing services to tribal lands. We also note that the Commission is examining ways to comprehensively reform federal high-cost universal service. The interim cap that the Commission adopts today is an interim measure that will be replaced by comprehensive reforms which will be developed in the future and which will minimize any economically adverse effect of the cap on small businesses.

F. Report to Congress

18. The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress pursuant to the SBREFA.[49] In addition, the Commission will send a copy of the Order,

[44] U.S. Census Bureau, 2002 NAICS Definitions, "517910 Other Telecommunications"; http://www.census.gov/epcd/naics02/def/NDEF517.HTM.

[45] The SBA size standard for "All Other Telecommunications is $23.0 million or less in average annual revenues. *See* 13 C.F.R. § 121.201, NAICS Code 517919.

[46] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 517910 (issued Nov. 2005).

[47] *Id.* An additional 14 firms had annual receipts of $25 million or more.

[48] *See* 5 U.S.C. § 603(c).

[49] *See* 5 U.S.C. § 801(a)(1)(A).

including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Order and the FRFA (or summaries thereof) will also be published in the Federal Register.[50]

[50] *See* 5 U.S.C. § 604(b).

STATEMENT OF
CHAIRMAN KEVIN J. MARTIN

Re: High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment, WC Docket No. 05-337, CC Docket No. 96-45.

Today, we act to stem the explosive growth of the Universal Service Fund (Fund) by capping total annual high-cost universal service support for competitive eligible telecommunications carriers (ETCs) at the level of support that they were eligible to receive in each state during March 2008. This action is essential to preserve and advance the benefits of the universal service program while we consider comprehensive reform.

The United States and the Commission have a long history and tradition of ensuring that rural areas of the country are connected and have similar opportunities for communications as other areas. Our universal service program must continue to promote investment in rural America's infrastructure and ensure access to telecommunications services that are comparable to those available in urban areas today, as well as provide a platform for delivery of advanced services.

Changes in technology and increases in the number of carriers that receive universal service support, however, have placed significant pressure on the stability of the Fund. A large and rapidly growing portion of the high-cost support program is now devoted to supporting multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. These competitive ETCs don't receive support based on their own costs, but rather on the costs of the incumbent provider, even if their costs of providing service are lower.

Indeed, growth in required contributions to the Fund is largely attributable to these competitive ETCs. High-cost support to competitive ETCs has grown from approximately $1.5 million in 2000 to well over $1 billion in 2007. Left unchecked, this staggering growth threatens the sustainability of the Fund.

A year ago, the Federal-State Joint Board on Universal Service recommended capping competitive ETC funding to address the escalating impact of this problem. I supported that recommendation, and six months ago, I proposed the cap we adopt today.

Today's decision is not an end in itself, but a step on the path towards comprehensive reform. I continue to believe the long-term answer for comprehensive reform of high-cost universal service support is to move to a reverse auction methodology and to require that high-cost support be based on a carrier's own costs. I'm supportive of these measures to contain the growth of universal service in order to preserve and advance the benefits of the Fund and protect the ability of people in rural areas to continue to be connected. I look forward to working with my colleagues as we consider comprehensive reform.

DISSENTING STATEMENT OF
COMMISSIONER MICHAEL J. COPPS

Re: High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment, WC Docket No. 05-337, CC Docket No. 96-45.

I dissent from today's decision to cap high-cost support for competitive eligible telecommunications carriers (CETC) because it falls woefully short of the fundamental, comprehensive reforms needed to meet the overarching telecommunications challenge of the Twenty-first century. That challenge, both by statute and by necessity, is to encourage the deployment of basic and advanced telecommunications to all of our citizens and to ensure that the Universal Service system, which accomplished so much in the 20th Century, can do so again now. Today's decision does nothing meaningful to meet that challenge; indeed, it only deflects us from the goal. The outcome is an illusory band-aid that is supposed to contain costs but, in reality, imposes the much heavier cost of lost opportunity to reform Universal Service and put America back in the vanguard of advanced telecommunications. As a result of today's vote, real reform is on the back-burner. What a pity!

The need for reform is patently obvious. As this country continues to lag in so many international broadband rankings and as consumers and competitors around the world are receiving high-speed and high-value services, Americans in urban and rural areas and on tribal lands are falling further behind. One critical element of turning this ship around is re-tooling the Universal Service system with broadband deployment as its mission. And while my colleagues on the Federal-State Universal Service Joint Board unanimously agreed to make broadband part of the system, today's Order has the effect of putting this off to another day. So too does it put off the many other difficult questions regarding sustainability of the Fund that the Joint Board wrestled with and put in its recommendations six months ago.

Comprehensive reform is not painless and may require shared sacrifice from all stakeholders. Yet, today's piecemeal approach has the unfortunate consequence of pushing interested parties apart rather than bringing them all to the table to develop workable solutions. Just consider that 365 days ago the Joint Board recommended an interim, emergency high-cost cap. Since then Commission and stakeholder attention has been largely focused on the merits and demerits of such a cap. Today's Order ends up picking winners and losers when it comes to future Universal Service support and increases the risk that no one will return to the table to discuss real reform any time soon. Had all interested parties spent the same time and energy over the last year focused on comprehensive reform, we might "be there" already.

The Commission seems to forget that we do not have the luxury of time here. Why is it slamming on the brakes when it comes to reform? The Joint Board gave us more, and it is those proposals we should be considering in a more comprehensive fashion. While I disagreed with some of the Joint Board's recommendations, at a minimum they put us on the road to real reform. The majority's response today, while they will attempt to bill it as an "interim, emergency cap", has no sunset period and commits only to completing comprehensive reform "as soon as feasible." Remember that old song "The Twelfth of Never"?

While I strongly disagree with the overall decision taken today, I am encouraged the majority added to their CETC cap two caveats that I have long deemed important. The Order excludes from the cap high cost support for CETCs serving tribal lands or Native Alaskan Regions. These areas are among the most underserved when it comes to telecommunications—both basic phone service and broadband. The Commission must continue to focus on ways to bring affordable services to these areas as their residents are equally deserving of the benefits that technology affords. Second, a CETC will not be subject to the cap to the extent it provides cost data documenting its actual costs for providing competitive service. I continue to believe that the elimination of the Identical Support rule should be part of any comprehensive solution and this step is consistent with that approach.

I, for one, will continue to beat the drums for comprehensive Universal Service reform. It's what Congress wants, what the statute commands, and what consumers deserve. So I pledge today to do everything I can to encourage all stakeholders to come to the table and take on the unfinished business of empowering all our citizens through the awesome new tools of communications technology.

DISSENTING STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN

Re: High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment, WC Docket No. 05-337, CC Docket No. 96-45.

Universal service has long been at the heart of telecommunications policy. The resulting benefits – economic and social, in health care and education – accrue to us all, no matter where we live. So I take seriously our directive under the Act to ensure the continued vitality of universal service and am extremely grateful to the members of the Federal-State Joint Board on Universal Service for their multiple recommendations. Despite the importance and magnitude of the challenge of developing meaningful long-term improvements to our universal service policies, the Commission focuses today solely on the narrow question of whether to cap support for competitive eligible telecommunications carriers (CETCs). After careful deliberation, I dissent from this Order, which, I conclude, amounts to a step backwards in universal service policy rather than a step toward the future.

While I am deeply skeptical about the imposition of artificial caps on universal service, I have long been concerned about fund growth and the need to manage scarce resources responsibly. One apparent obstacle to that goal is the current designation process, which gives State commissions strong incentives to designate additional universal service recipients but places no corresponding financial responsibility for those designations. Going back to my days on the Joint Board, I have urged both our Commission and our State commission colleagues to exercise caution in granting CETC designations. Yet, the cap mechanism adopted by the Commission today suffers from a major flaw because it penalizes most harshly the very States that heeded calls for discretion in the designation process.

I would have preferred that the Commission take more meaningful measures to address growth of the fund, such as eliminating the Commission's so-called identical support rule, tightening the designation process and improving the Commission's audit processes. In this respect, I appreciate the majority's efforts to address a number of my concerns with this revised cap mechanism, such as creating an exception for CETCs that document their own costs. I am also pleased that the Commission recognizes the unique nature of Tribal lands and Alaskan Native Regions, many of which face devastatingly low telephone penetration rates and high barriers to deploying advanced communications. A limited exemption should help maintain incentives for carriers to bring services to these hard-to-serve areas.

As technology and the marketplace rapidly reshape the communications landscape, we face difficult questions about how our universal service policies should keep pace. Our larger challenge is preserving and advancing universal service amidst these changes. At the same time, we remain ever mindful that it is consumers who ultimately fund universal service contributions. This means that universal service must evolve, as Congress intended. In particular, universal service can and must be an integral part of meeting our nation's broadband challenge. We also must craft our universal service policies with an eye towards their impact on providers of last resort, the deployment of spectrum-based services, the competitive marketplace, and the role of the states. The time is now to tackle these issues in earnest, lest time and technology render our policies obsolete.

I share the concern expressed by so many commenters and Members of Congress that this decision to impose a cap, while labeled "interim," may be used as an excuse for foot dragging. Our choices regarding long-term universal service reform will require hard work and the input of a wide range of providers, state commissions, and consumer interests. Rightly so, for our decisions will have a dramatic effect on the ability of communities and consumers in Rural America to thrive and grow with the rest of the country. Yet, today, we do not meaningfully advance those discussions. Rather, the entire debate over the cap has, in fact, been a distraction from tackling the underlying issues.

With the question of a cap now decided, the Commission must now turn its attention back to developing long-term solutions for universal service. I would like to again thank the Members of the Joint Board for their considerable efforts to deliver recommendations for comprehensive reform. The Commission has now sought comment on no less than three reform proposals. While I am not without reservations about some of them, it is time for the Commission to rededicate itself to ensuring that universal service continues to meet our communications challenges and stays vibrant in a broadband age. I look forward to the coming dialogue with Members of Congress, our state commission colleagues, consumers, providers, and the many others with a stake in the future of universal service.

STATEMENT OF
COMMISSIONER DEBORAH TAYLOR TATE

Re: High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment, WC Docket No. 05-337, CC Docket No. 96-45.

Today we take an important and historic step down the necessary road to real reform of universal service. Specifically, the Commission takes appropriate action to rein in the explosive growth in high-cost universal service support disbursements to competitive eligible telecommunications carriers.

In both my role at the Commission and as Federal Chair of the Federal-State Joint Board on Universal Service (Joint Board), I have been clear about my commitment to the key tenets of universal service: to promote the availability of quality services at just, reasonable and affordable rates, to increase access to advanced telecommunications services throughout the Nation, and to advance the availability of such services to all consumers in the U.S., no matter where they live. At the same time, we all recognize that the system is outdated as competition and ever-changing technologies have caused inefficiencies in the current system. I look forward to examining market-oriented solutions such as reverse auctions that can provide appropriate incentives for investment and efficiencies, and closely scrutinizing whether it make economic sense to provide ongoing support for multiple providers who ultimately compete for the same customers. As we examine comprehensive reform our focus should be on encouraging efficiencies, as well as reviewing affordability and creating a level playing field. Most importantly, we must ensure that support from the fund is being utilized as it was intended: to provide services to those in truly high cost areas. And we must do so in a way that is efficient, targeted and fiscally responsible. As stewards of public funds, we must remain mindful that it is consumers who ultimately pay universal service contributions.

It has been almost one year since the Joint Board made its recommendation and I would like to reiterate my appreciation for my Co-Chair, Commissioner Ray Baum of the Oregon Public Utility Commission and all of the Joint Board members. Each made valuable contributions to the process and set aside their individual state interests to work toward a unified, national recommendation. In addition, I would like to recognize the dedication and years of committed work of Billy Jack Gregg, former Consumer Advocate of West Virginia, and other public interest stakeholders. Their important input was crucial to bringing us to this point in the process. They should all take pride in the fact that their interim recommendation was adopted today by the Commission and will immediately begin to curb the unsustainable growth-at least regarding the high cost fund.

I want to commend members of Congress who have drafted universal service reform proposals-the most recent from Congressman Barton whose draft is renewing discussion on fresh and innovative ideas. I look forward to working with members of Congress as we progress toward comprehensive reform and hope we may all come together to address the issues for the good of the program.

Now, the difficult work must begin again toward lasting and full reform to insure the viability of our universal service fund in this new digital age. I humbly ask all of the providers/companies, scholars, economists, professors, and consumer advocates and others with unique knowledge to help us balance the varied and various interests and to work toward a consensus which will continue to insure the fund will remain for future generations.

STATEMENT OF

COMMISSIONER ROBERT M. McDOWELL

Re: High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment, WC Docket No. 05-337, CC Docket No. 96-45.

I support this Order imposing an interim cap on the Universal Service High Cost Fund. Since becoming a commissioner, I have maintained that controlling the growth of the fund should be the Commission's first priority. Like an unabated fever, expenditures from this fund continue to spike out of control. Ultimately, it is consumers who pay for these unbridled escalations. While the Commission works toward broader and permanent reform, it is our duty to enact a temporary measure to instill fiscal discipline.

For a time, it appeared as though the runaway growth of the fund was slowing. After a spike in the contribution factor to 11.7 percent for the second quarter of 2007, the factor declined steadily to 10.2 percent for the first quarter of 2008. However, the contribution factor is on the increase again, to 11.3 percent for the second quarter of 2008, as announced by the Commission's Office of Managing Director on March 14. Funding for competitive eligible telecommunications carriers (CETCs) is increasing at a rate of roughly $150 million per year, and some estimate that the CETC funding level could reach as high as $1.4 billion by 2009, if left unchecked. Moreover, this estimate does not even take into account the additional potential increase in demand for CETC funding to build out AWS and 700 MHz spectrum when services on those frequencies come on line.

As a result of our order, the fund is frozen at March 2008 levels. Additionally, I support an exception for all of the providers serving tribal lands across the country, and Alaska Native lands – some of the most under-served parts of America. This limited exception will ensure that companies operating in these remote areas will continue to receive high-cost support to provide their services while we move toward a permanent solution. Furthermore, these terms do not favor any specific provider.

I look forward to pursuing comprehensive reform of the Universal Service system as quickly as possible. The Commission has a rare opportunity to enact permanent reform this year, and I am encouraged by the Chairman's pledge to forge ahead. As always, I will work closely with my colleagues, Congress, industry, and consumers toward this end.