

telecommunications technologies.”⁶⁷ Likewise, in section 706 of the 1996 Act, Congress directed the Commission to “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans,” including “broadband telecommunications capability.”⁶⁸ In addition, among the universal service provisions codified in section 254 of the Act, Congress stipulated that state and federal universal service policies and rules should be designed to ensure that low-income consumers have access to affordable telecommunications and information services, including advanced services, that are “reasonably comparable” to those available in urban areas.⁶⁹

Although section 254 of the Act governs many aspects of the federal universal service program, it is not the exclusive source of statutory authority on which the Commission may rely in crafting universal service support mechanisms. To the extent deemed necessary, the Commission also may exercise its ancillary authority under Title I to adopt universal service rules that serve the public interest and are consistent with the general goals of section 254. Recognizing this fact, the Commission in 2000 relied not only on section 254 in deciding to increase Low Income support for tribal land residents,

⁶⁷ 1996 Preamble.

⁶⁸ Pub. L. 104-104, Title VII, § 706, Feb. 8, 1996, 110 Stat. 153 (1996 Act, Section 706), codified at § 151 nt.

⁶⁹ 47 U.S.C. § 254(b)(3) (“Consumers in all regions of the Nation, including low-income consumers . . . should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas”); *see also* 47 U.S.C. § 254(b)(1) (“Quality services should be available at just, reasonable, and affordable rates”); 47 U.S.C. § 254(b)(2) (“Access to advanced telecommunications and information services should be provide in all regions of the Nation”).

but also on other provisions, including sections 1 and 4(i).⁷⁰ Likewise, for more than a decade before Congress enacted section 254 in the 1996 Act, the Commission relied upon the broad universal service mandate in section 1 to create Low Income and high-cost universal service programs.⁷¹

These provisions collectively confer ample authority on the Commission to adopt the broadband subsidy changes proposed herein. Internet-based broadband video and other applications are the only communications services that satisfy section 254's "reasonably comparable" mandate for thousands of individuals in the target population. These broadband-based communication services are also the only services that currently satisfy section 225's functional equivalence mandate for ASL users and persons needing IP CTS.⁷² Under the plain language of sections 225 and 254 then, the Commission has authority to take reasonable steps – such as offering consumers a choice of how they wish to apply their (already authorized) universal service subsidies and allowing the use of Low Income support for an underserved population – that will help low-income people in

⁷⁰ See *Tribal Lands Order* ¶¶ 20-21 & n.45 (citing 47 U.S.C. § 254(b)(1) & (b)(3); 47 U.S.C. § 151; 47 U.S.C. § 154(i)).

⁷¹ See, e.g., *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶ 337 (1997) (stating that the FCC's "authority to restrict, expand, or otherwise modify the Lifeline program through provisions other than section 254 has been well established over the past decade. In 1985, we created Lifeline under the general authority of sections 1, 4(i), 201, and 205 of the Act. Since then, we have relied on those provisions to modify the program on several occasions. . . . We must assume that Congress was aware of the Commission's authority under Titles I and II to amend Lifeline. Consequently, we agree with the Joint Board that we retain the authority to revise the Lifeline program."); see also *Rural Telephone Coalition v. FCC*, 838 F.2d 1307, 1315 (D.C. Cir. 1988) (FCC's proposal to create federal Universal Service Fund, in order to provide high-cost support, is lawful under sections 1 and 4(i) of the Act).

⁷² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 20 FCC Rcd 13165, ¶ 3 (2005).

the target population obtain the broadband access they need to communicate to the full extent intended by Congress.

The Commission also has broad leeway to amend the parameters of the Low Income program so as to accommodate a new broadband mechanism. Sections 1, 4(i) and 201(b) of the Act permit the Commission to adopt all necessary rules to effectuate any provision of the Act, including the universal service goal of section 1, and the “functionally equivalent” telephone service and “reasonably comparable” mandates set forth in sections 225 and 254.⁷³

Likewise, as noted above, the Commission has previously determined that it may identify discrete segments of the population whose low-income members have particularly low subscriber penetration rates and take additional steps to foster communications access.⁷⁴ This reasoning applies with even greater force to low-income people in the target population, given that the penetration rates for this population are estimated to be a fraction of those experienced by other underserved communities. These disparities justify prompt Commission action to help defray the costs of broadband Internet service for low-income individuals in the target population.

IV. CONCLUSION

The Commission should expedite its treatment of this Petition for Rulemaking so that it can put in place the necessary reforms to increase the affordability of Internet-

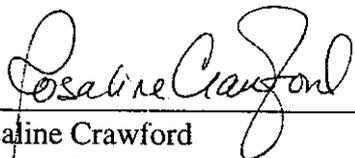
⁷³ 47 U.S.C. §§ 151, 154(i), 201(b).

⁷⁴ *Federal-State Joint Board on Universal Service*, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, ¶¶ 2, 5 (2000) (“*Tribal Lands Order*”) (on average, Indians had a penetration of only about 47 percent, versus 77 percent for rural households earning less than \$5,000 and 94 percent for all households in the United States).

based broadband communications services and CPE for low income people who are deaf, hard of hearing, late deafened, or deaf-blind, or who have a speech disability.

Respectfully submitted,

On behalf of the COAT Universal Service Task Force:



Rosaline Crawford
Director, Law and Advocacy Center
National Association of the Deaf
8630 Fenton Street, Suite 820
Silver Spring, MD 20910
(301) 587-7730
rosaline.crawford@nad.org



Karen Peltz Strauss
Legal Consultant
Communication Service for the Deaf
102 North Krohn Place
Sioux Falls, SD 57103
(202) 363-1263
kpsconsulting@starpower.net

Jenifer Simpson
Senior Director, Telecommunications
and Technology Policy
American Association of People with Disabilities
1629 K Street N.W., Suite 503
Washington, DC 20006
(202) 457-0046
aapdjennifer@acl.com

Claude L. Stout
Executive Director
Telecommunications for the Deaf
and Hard of Hearing, Inc.
8630 Fenton Street, Suite 604
Silver Spring, MD 20910
(301) 589-3786
tdiexdir@aol.com

Jamie McNamara Pope
Executive Director
American Association of the Deaf-Blind
8630 Fenton Street, Suite 121
Silver Spring, MD 20920
(301) 495-4403
Jamie-Pope@aadb.org

Lise Hamlin
Director of Public Policy
& State Development
Hearing Loss Association of America
7910 Woodmont Avenue, Suite 1200
Bethesda, MD 20814
(301) 657-2248
lhamlin@hearingloss.org

Cheryl A. Heppner
Executive Director
Northern Virginia Resource Center
for Deaf and Hard of Hearing Persons
3951 Pender Drive, Suite 130
Fairfax, VA 22030
(703) 352-9055
cheppner@nvrc.org

Bob Segalman
President
Speech Communications Assistance
by Telephone, Inc.
515 P Street, #403
Sacramento, CA 95814
(916) 448-5517 via (888) 877-5032
drsts@comcast.net

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Coalition of Organizations for Accessible Technology

Affiliates

as of September 26, 2008

National Organizations (85)

- AAC Institute
- Academy for Certification of Vision Rehabilitation and Education Professionals
- Accessible Media Industry Coalition
- Alexander Graham Bell Association for the Deaf and Hard of Hearing
- Alliance for Public Technology
- Alliance for Technology Access
- American Association of the Deaf-Blind
- American Association of People with Disabilities
- American Council of the Blind
- American Deafness and Rehabilitation Association
- American Foundation for the Blind
- American Society for Deaf Children
- Assistive Technology Industry Association
- Association of Assistive Technology Act Programs
- Association of Late-Deafened Adults
- Audio Description Associates
- Audio Description Coalition
- Audio Description Solutions
- Bay Area Digital, LLC
- Benton Foundation
- Bridge Multimedia
- CapTel, Inc.
- Caption Associates, LLC
- Caption House
- CaptionMax
- CATEA, Georgia Institute of Technology
- Center for Advanced Communications Policy
- Center for Hearing Loss Help
- Chicago Captioning
- Comcare
- Communication Access Center for the Deaf and Hard of Hearing
- Communication Service for the Deaf
- Conference of Educational Administrators of Schools and Programs for the Deaf
- Council of Citizens with Low Vision International
- Deaf Seniors of America
- Disability Media Institute

- Disability Rights Education & Defense Fund
- Dolphin Computer Access Inc.
- Easter Seals
- Gallaudet University
- Gallaudet University Alumni Association
- GoAmerica/Hands On Video Relay Services
- Hearing Loss Association of America
- Helen Keller National Center
- Inclusive Technologies
- InSight Cinema
- International Center for Disability Resources on the Internet
- LNS Captioning
- League for the Hard of Hearing
- Metropolitan Washington Ear
- Narrative Television Network
- National Association for Parents of Children with Visual Impairments
- National Association of the Deaf
- National Black Deaf Advocates
- National Captioning Institute
- National Catholic Office of the Deaf
- National Council for Support of Disability Issues
- National Council of Private Agencies for the Blind and Visually Impaired
- National Council on Independent Living
- National Court Reporters Association
- National Cued Speech Association
- National Deaf Business Institute
- National Deaf Culture Fellowship of the Assemblies
- National Technical Institute for the Deaf
- NISH
- NPR Labs
- Partners for Access LLC
- ProjectReadOn
- Registry of Interpreters for the Deaf
- Rehabilitation Engineering and Assistive Technology Society of North America
- Sensory Access Foundation
- Snap!VRS
- Speech Communication Assistance by Telephone, Inc.
- TCS Associates
- TecAccess
- Telecommunications for the Deaf and Hard of Hearing, Inc.
- Tenacity Corporation
- Ultratec, Inc.
- USA Deaf Sports Federation
- Viable, Inc.

- Viable Technologies, Inc.
- Visual Language Interpreting
- VITAC
- WGBH Media Access Group
- World Institute on Disability

Regional, State, and Community-Based Organizations (134)

Alabama

- Alabama Association of the Deaf
- Alabama Council of the Blind

Alaska

- Alaska Center for the Blind and Visually Impaired
- Alaska Independent Blind

Arizona

- Hearing Loss Association of the West Valley

Arkansas

- Arkansas Association of the Deaf

California

- Association of Late Deafened Adults – East Bay - Northern California
- Blind and Visually Impaired Center of Monterey County
- California Council of the Blind
- Center for Accessible Technology
- Center on Deafness - Inland Empire
- Deaf and Hard of Hearing Service Center, Inc.
- Deaf Community Services of San Diego, Inc.
- Deaf Counseling, Advocacy & Referral Agency
- Earle Baum Center
- Greater Los Angeles Agency on Deafness
- Hearing Loss Association of America Diablo Valley Chapter
- Hearing Loss Association of Los Angeles
- Hearing Loss Association of San Fernando Valley
- NorCal Center on Deafness, Inc.
- Orange County Deaf Equal Access Foundation
- People Who Organization, California
- San Diego – Hearing Loss Network
- SEIU Local 1877
- Tri-County GLAD
- Vista Center for the Blind and Visually Impaired

Colorado

- Colorado Association of the Deaf
- Southeastern Colorado Chapter of the Hearing Loss Association of America

Connecticut

- Connecticut Association of the Deaf

Delaware

- Hearing Loss Association of Delaware

Florida

- Alachua County Citizens Disability Advisory Committee, Gainesville
- Deaf/Hard of Hearing Legal Advocacy Program
- Florida Coordinating Council for the Deaf and Hard of Hearing
- Florida Division of Blind Services
- Florida Lions Conklin Center for the Blind
- Hearing Loss Association of Florida
- Hearing Loss Association of Gainesville
- Hearing Loss Association of Jacksonville
- Lighthouse Central Florida, Inc.
- Lighthouse of Broward

Georgia

- Georgia Industries for the Blind
- Hearing Loss Association of Georgia

Hawaii

- Assistive Technology Resource Centers of Hawaii

Illinois

- Hearing Loss Association of Central Illinois
- Illinois Council of the Blind
- Regional Access and Mobilization Project

Indiana

- American Council of the Blind of Indiana
- Association of Late Deafened Adults -- Northwest Indiana
- Hearing Loss Association of Northwest Indiana
- Indiana Governor's Council for Disabilities

Kansas

- Envision, Inc.
- Kansas Association for the Blind and Visually Impaired

Kentucky

- Kentucky Council of the Blind

Maine

- Association of Late Deafened Adults – Maine

Maryland

- Hearing Loss Association of America, Montgomery County Chapter
- Hearing Loss Association of Greater Baltimore
- Maryland Association of the Deaf
- Maryland Council of the Blind

Massachusetts

- Association of Blind Citizens
- Audio Journal of Worcester, MA
- Bay State Council of the Blind
- Disability Policy Consortium
- Perkins School for the Blind
- The Carroll Center for the Blind

Michigan

- Association for the Blind & Visually Impaired
- DiverseAbility, LLC
- Michigan Disability Rights Coalition

Minnesota

- Commission of Deaf, DeafBlind and Hard of Hearing Minnesotans
- Minnesota Association of Deaf Citizens

Mississippi

- Mississippi Association of the Deaf

Missouri

- Missouri Association of the Deaf
- Missouri Council of the Blind
- The Independent Living Center, Inc., Joplin

Montana

- University of Montana Rural Institute: Center for Excellence in Disability Education, Research, and Service

Nebraska

- American Council of the Blind of Nebraska

New Hampshire

- Granite State Independent Living

New Jersey

- Association of Late Deafened Adults – Garden State
- Hearing Loss Association of New Jersey
- New Jersey Council of the Blind

New Mexico

- State of New Mexico Commission for Deaf and Hard of Hearing Persons

New York

- Association for the Blind and Visually Impaired - Goodwill Industries of Greater Rochester, Inc.
- Association for Vision Rehabilitation and Employment, Inc.
- Central Association for the Blind and Visually Impaired
- Emergency Preparedness Online
- Hearing Loss Association of Albany
- Hearing Loss Association of America - Goshen Chapter
- Hearing Loss Association of America - Mid Hudson Chapter
- Hearing Loss Association of America - Rochester Chapter
- Hearing Loss Association of America - Utica Chapter
- Hearing Loss Association of Queens at Lexington
- Hearing Loss Association - Manhattan Chapter
- Hearing Loss Association - New York State
- Hearing Loss Association - Westchester Chapter
- Queens Independent Living Center

North Carolina

- Arts Access Inc.

North Dakota

- North Dakota Association of the Blind

Ohio

- Alexander Graham Bell Association of Ohio
- Greenleaf Community Services for the Deaf
- Hearing Loss Association of Central Ohio
- Ohio Council of the Blind

Oregon

- Hearing Loss Association of Oregon

Pennsylvania

- Hearing Loss Association of Pennsylvania
- Overbrook School for the Blind
- Pennsylvania Association for the Blind
- Pennsylvania Council of the Blind
- Pennsylvania Society for the Advancement of the Deaf

Rhode Island

- Hearing Loss Association of Rhode Island
- Rhode Island Adaptive Telephone Equipment Loan Program
- Rhode Island Council on Assistive Technology

South Carolina

- South Carolina Association of the Deaf, Inc.

South Dakota

- South Dakota Association of the Blind

Tennessee

- Hearing Loss Association of America - Nashville Chapter
- Tennessee Association of the Deaf

Texas

- Hearing Loss Association of America - Permian Basin Chapter
- San Antonio Lighthouse for the Blind

Utah

- Hearing Loss Association of America - Salt Lake City Chapter
- Utah Popcorn Coalition

Vermont

- Vermont Association of the Deaf

Virginia

- DAC (Disabled Action Committee)
- Deaf and Hard of Hearing Services Center, Inc., Roanoke
- MediCorp Health System, Fredericksburg
- Northern Virginia Resource Center for Deaf and Hard of Hearing Persons
- Roanoke Valley Club of the Deaf

Washington

- ALDA - Puget Sound
- Hearing Loss Association of Washington
- Hearing Loss Association of Whatcom County
- Seattle Lighthouse for the Blind

- Washington Council of the Blind
- Washington State Communication Access Project

Wisconsin

- Center for Deaf-Blind Persons, Inc.
- IndependenceFirst
- North Country Independent Living Inc.
- Wisconsin Coalition of Independent Living Centers
- Wisconsin Council of the Blind & Visually Impaired