RURAL TELEPHONE SERVICE CO., INC.

Your One-Stop Communications, Information and Entertainment Source

April 20, 2009

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: WC Docket No. 05-337

Dear Ms. Dortch:

Rural Telephone Service Company, Inc. submits this letter in support of the Petition for Clarification filed with the Federal Communications Commission ("FCC" or "Commission") by the Coalition for Equity in Switching Support ("Equity Coalition").[1] The Commission should clarify its rules to permit small incumbent local exchange carriers ("LECs") to receive local switching support based upon their current number of access lines, regardless of whether a carrier's access lines temporarily exceeded a threshold number in the past.

Small incumbent LECs serving rural and sparsely populated service territories confront higher per subscriber switching costs because they do not benefit from economies of scale.[2] The FCC developed a category of explicit universal service support called Local Switching Support ("LSS") designed to offset those higher costs so that small incumbent LECs could continue to provide quality telephone service to their customers at reasonable rates and to permit those carriers to upgrade their local switching facilities.[3] The amount of LSS that a company receives depends, in part, on the number of access lines it serves. The FCC's rules establish three categories of LSS-eligible carriers: those serving fewer than 10,000 lines; those serving 10,001 to 20,000 lines; and those serving 20,001 to 50,000 lines.[4] A different Dial Equipment Minutes ("DEM") weighting factor is applied to each category that will result in the allocation of a different percentage of switching costs to the interstate jurisdiction.

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1 *Jurisdictional Separations and Referral to the Federal-State Joint Board; Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, CC Docket Nos. 80-286 and 96-45; WC Docket No. 05-337, Petition for Clarification (January 8, 2009) ("Petition").

2 *See, e.g., Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶ 212 (1997) ("*Universal Service Report and Order*").

3 *Universal Service Report and Order*, ¶ 304.

4 47 C.F.R. § 36.125(f).

P.O. Box 158 • 145 N. Main • Lenora, Kansas 67645 • v 785.567.4281 • f 785.567.4401 • 877.567.7872 • ruraltelephone.com

The Petition describes that the rule is being applied in a manner that denies some carriers the appropriate level of switching support for their current number of access lines because at some point in the past these carriers exceeded a threshold number of access lines that temporarily placed them in a different DEM weighting category.[5] For nearly a decade, many small incumbent LECs have experienced a steady decline in the number of access lines served. Under normal circumstances, a lower number of access lines (beneath a threshold number) would correspond to a higher DEM weighting factor when calculating the small incumbent LEC's LSS support. The higher weighting factor would result in a higher amount of local switching support. Due to the interpretation of the rules described in the Petition, however, appropriate adjustments are not being made to accommodate for these carriers' access line losses.

The result is at odds with universal service goals. The harm caused by a loss in basic telephone service revenues is compounded by the inability to qualify for a corresponding increase in local switching support.

Section 36.125(j) of the Commission's rules was intended to lower the DEM weighting factor as companies' access lines increased beyond established thresholds – an exception to the separations freeze to account for growth in the size of a company. In an environment where access lines were uniformly increasing, it is reasonable to presume that the rule, which was the only exception to an order that froze all other separations factors, was intended to avoid overcompensating carriers simply by operation of the separations freeze. Application of a lower DEM weighting factor to carriers whose access lines increased above a threshold would ensure that local switching support was made available in a nondiscriminatory manner. Unfortunately, that rule is now being applied in a discriminatory manner that imposes a hardship on carriers whose access lines are decreasing.[6] There is no evidence that the rule intended to deny carriers greater universal service support when the carriers' underlying economic circumstances (*i.e.,* losses in access lines and higher per-line switching costs) indicated that such support was needed.

The relief requested by the Petition would have no appreciable impact on the size of the Universal Service Fund but it is critically important to those small LECs confronting a significant drop in their number of access lines. Granting the relief requested by the Petition would provide the assistance to these small carriers and their vulnerable customers that LSS originally was intended to offer in accordance with federal universal service principles.

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[5] *Petition* at pp. 2, 14.

[6] The interpretation of the rule is discriminatory because it applies different LSS eligibility criteria to carriers having the same number of access lines.

For the reasons set forth above, the Commission should grant the Petition by clarifying its rules to permit small incumbent LECs to receive local switching support based upon their current number of access lines, regardless of whether a carrier's access lines temporarily exceeded a threshold number in the past.

Respectfully submitted,

Larry E. Sevier
CEO

cc: Julie Veach (Julie.Veach@fcc.gov)
Jennifer McKee (Jennifer.Mckee@fcc.gov)
Gary Seigel (Gary.Seigel@fcc.gov)
Antoinette Stevens (Antoinette.Stevens@fcc.gov)
Best Copy and Printing, Inc. (www.bcpiweb.com)