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April 30, 2009

Via Electronic Filing

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

Re: WC Docket No. 05-337; CC Docket No. 80-286
Ex Parte Notice

Dear Ms. Dortch:

On April 29, 2009, Lyman Horne of Star Telephone Membership Corporation, Dan Lindgren of Ketchikan Public Utilities (by telephone), and Cheryl Parrino and John Logan, on behalf of the Coalition for Equity in Switching Support, (collectively, "Coalition"), met separately with Jennifer Schneider, Legal Advisor to Acting Chairman Copps; Mark Stone, Legal Advisor to Commissioner Adelstein; and Nick Alexander, Legal Advisor to Commissioner McDowell, to discuss the Petition for Clarification filed by the Coalition for Equity in Switching Support.¹ The attached slides were distributed during the course of those meetings.

The Coalition's representatives emphasized that the Dial Equipment Minute ("DEM") weighting rule contained in section 36.125(j) of the Commission's rules was adopted by the Commission as an exception to its overall freeze on the allocation of costs between the interstate and intrastate jurisdictions implemented by the FCC several years ago.² This exception to the separations freeze was made so that local switching support ("LSS") would continue to be based on a carrier's current line count, not its historic line count. Accordingly, if a carrier's number of access lines increased above a threshold number, it should result in the application of a smaller DEM weighting factor and correspondingly decreased LSS assistance. Conversely, if a carrier's number of access lines fell below a threshold number, it should result in the application of a larger DEM

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 (filed Jan. 8, 2009) ("Petition").

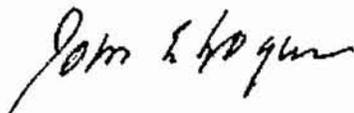
² 47 C.F.R. § 36.125(j).

weighting factor and correspondingly increased LSS assistance. The Coalition's representatives again noted that because the rule explicitly addressed only an increase in access lines and not a decrease in access lines, however, it is now being applied in a manner at odds with its original purpose: small incumbent carriers' local switching support is being based on their historic line counts, not their actual current line counts.

The Commission did not change the June 30, 2006 expiration date in section 36.125(j) of its rules when it extended the separations freeze until June 30, 2009. Therefore, the Coalition's representatives urged the Commission to clarify that, in accordance with the usual DEM weighting rule, incumbent carriers whose line count fell below an applicable threshold before June 2009 are entitled to LSS assistance based on their actual line count. On a prospective basis, the June 30, 2009 deadline for extending the separations freeze provides an opportunity to correct the inequity now that the Commission knows that many small incumbent LECs' access lines are decreasing. Accordingly, if the separations freeze is extended beyond June 30, 2009, the Commission should modify section 36.125(j) of its rules to specify that LSS support will be calculated on the basis of a carrier's actual line count during the relevant reporting period so as not to provide a windfall or a penalty to carriers with changing numbers of access lines. This change would not preclude future comprehensive separations or universal service reform. Moreover, the rule change would have only a *de minimis* impact on the size of the High-Cost Fund, but would greatly improve the ability of the affected companies to continue providing quality local telephone service to their customers.

Pursuant to the Commission's rules, this letter is being submitted for inclusion in the public record in the above-referenced proceedings.

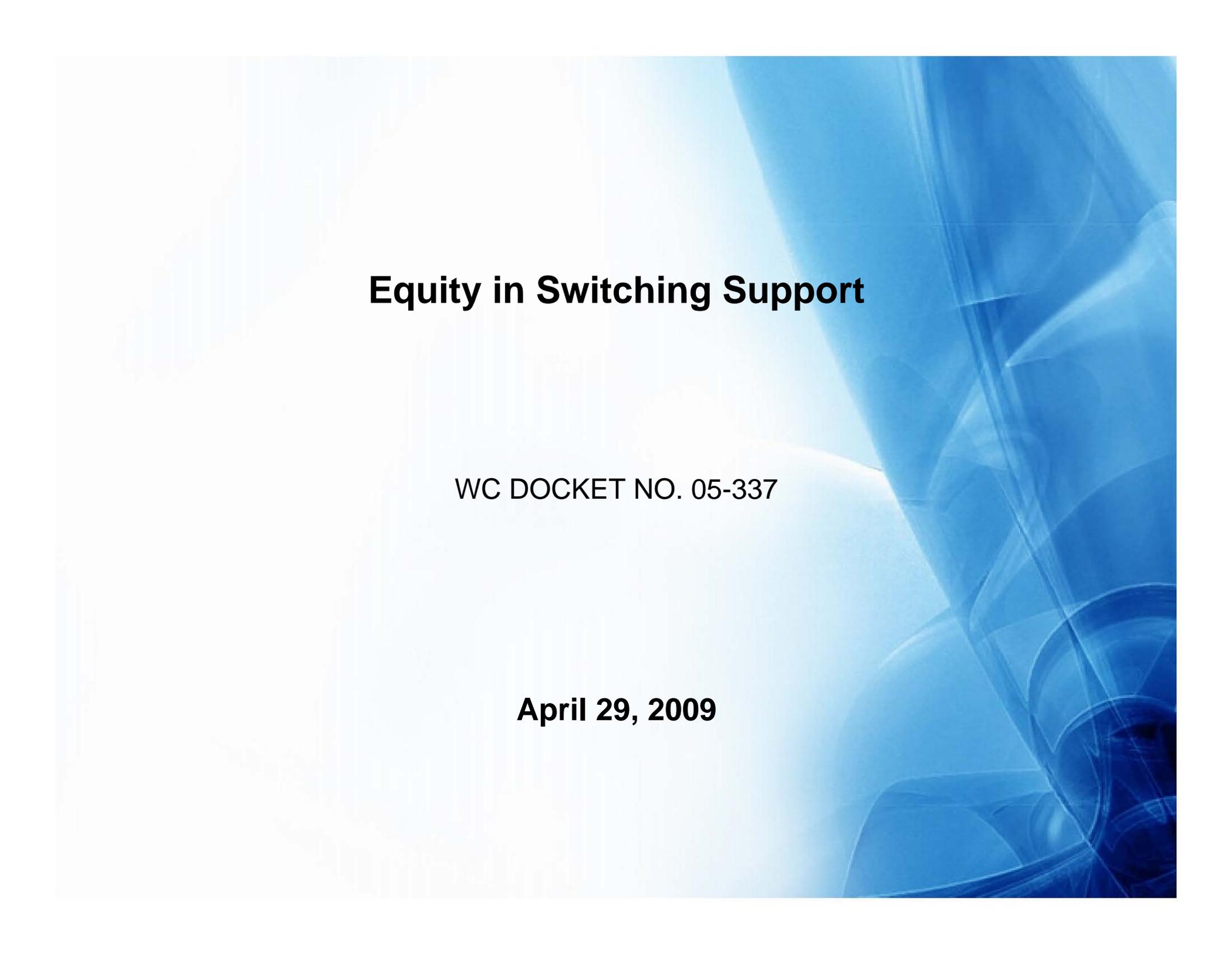
Sincerely,



John E. Logan
Counsel to
The Coalition for Equity in Switching Support

cc: Nick Alexander
Jennifer Schneider
Mark Stone

Attachment



Equity in Switching Support

WC DOCKET NO. 05-337

April 29, 2009



Agenda

- Introduction
- Background
- Implications of granting requested relief
- Conclusions



Introduction

- A group of rural service providers that are being denied local switching support based on historical line counts formed the Coalition for Equity in Switching Support (“Coalition”) to petition the FCC to clarify that support is based on current line counts
 - Each member of the Coalition lost support or had its appropriate DEM Weighting reduced because it temporarily exceeded an access line threshold
 - Companies with line counts similar to or greater than the Coalition members are receiving the support denied the Coalition members
 - The rule being interpreted to create this inequitable result is ambiguous because it only addresses an increase in access lines and refers to a specific time period that has expired
 - Nothing in the FCC’s orders indicates this denial of support was desired or intentional
 - The denial is inconsistent with the purpose and intent of universal service and local switching support in particular

- We have prepared this presentation to provide an overview of the Coalition’s petition and to describe the impact the grant of the requested clarification would have on the Coalition members, their customers, and their communities
 - We have highlighted two Coalition members, Star Telephone and Ketchikan Public Utilities, as examples

Introduction (cont'd)

- The following are snapshots of Star Telephone and Ketchikan Public Utilities
 - Star Telephone Membership Corporation
 - Agricultural area of North Carolina
 - Serves no incorporated towns or cities with the exception of the Town of Harrells (Pop ~ 200)
 - Service territory spans 1,450 square miles, roughly the size of Rhode Island
 - Approximately 17,300 access lines*
 - 9% of customers are Lifeline voice customers
 - Ketchikan Public Utilities
 - Municipal utility that serves an insular area of rugged mountainous terrain in Alaska accessible only by aircraft or boat
 - Economy was significantly impacted by closing of the largest employer, Ketchikan Pulp Company, in 1997 and is now largely dependent on tourism
 - Approximately 7,600 access lines*
 - 11% unemployment in service territory
 - 14% of customers are Lifeline voice customers

* Source: Actual line counts as of December 31, 2008

Introduction (cont'd)

- The Coalition estimates that the current interpretation of the rule has deprived the Coalition members AND all other affected companies of approximately \$12 million in local switching in 2007 and \$17 million in 2008*
- Although mere tenths of a percent of the overall Universal Service Fund, this amount is significant to these small companies that need this support to help fulfill the objectives of universal service and local switching support
- The petition has received widespread industry support from the following:
 - Independent Telephone and Telecommunications Alliance (ITTA)
 - National Exchange Carrier Association (NECA)
 - National Telecommunications Cooperative Association (NTCA)
 - Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)
 - Western Telecommunications Alliance (WTA)
 - North Carolina Cooperative Coalition (Carolina Link)
 - Mid-Communications, Inc. (dba HickoryTech)

* Source: Estimates are based on average LSS payments in 2007 and 2008 and working loop projections for 2007 and 2008 contained in the appendices to the Fourth Quarter 2007 and Fourth Quarter 2008 Universal Service Administrative Company reports to the Federal Communications Commission.

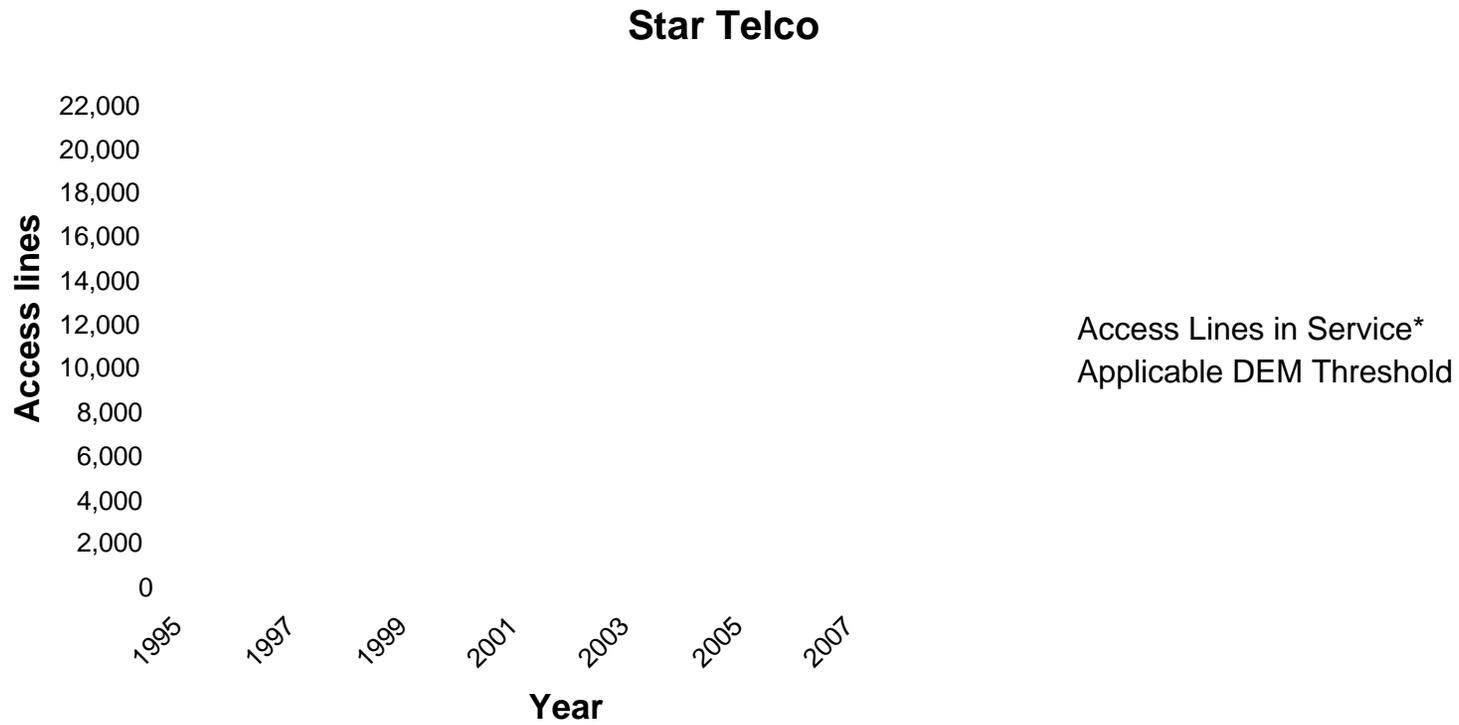
Background

- Local switching support and DEM weighting are mechanisms that were designed to offset the higher service costs associated with small rural telcos like the Coalition members
- The amount of support provided is based partially on the number of access lines in service

	Number of Access Lines	DEM Weighting Factor
▪	0 – 10,000	3.0
▪	10,001 – 20,000	2.5
▪	20,001 – 50,000	2.0

- This construct was established when access lines were uniformly increasing and therefore the FCC did not contemplate that eligible companies might temporarily become ineligible for a particular level of support because of a brief increase in access lines
 - Each member of the Coalition fits this description, with some having become ineligible for a particular level of support based on a few number of lines for a matter of months (see Star and Ketchikan examples on following pages)

Background (cont'd)

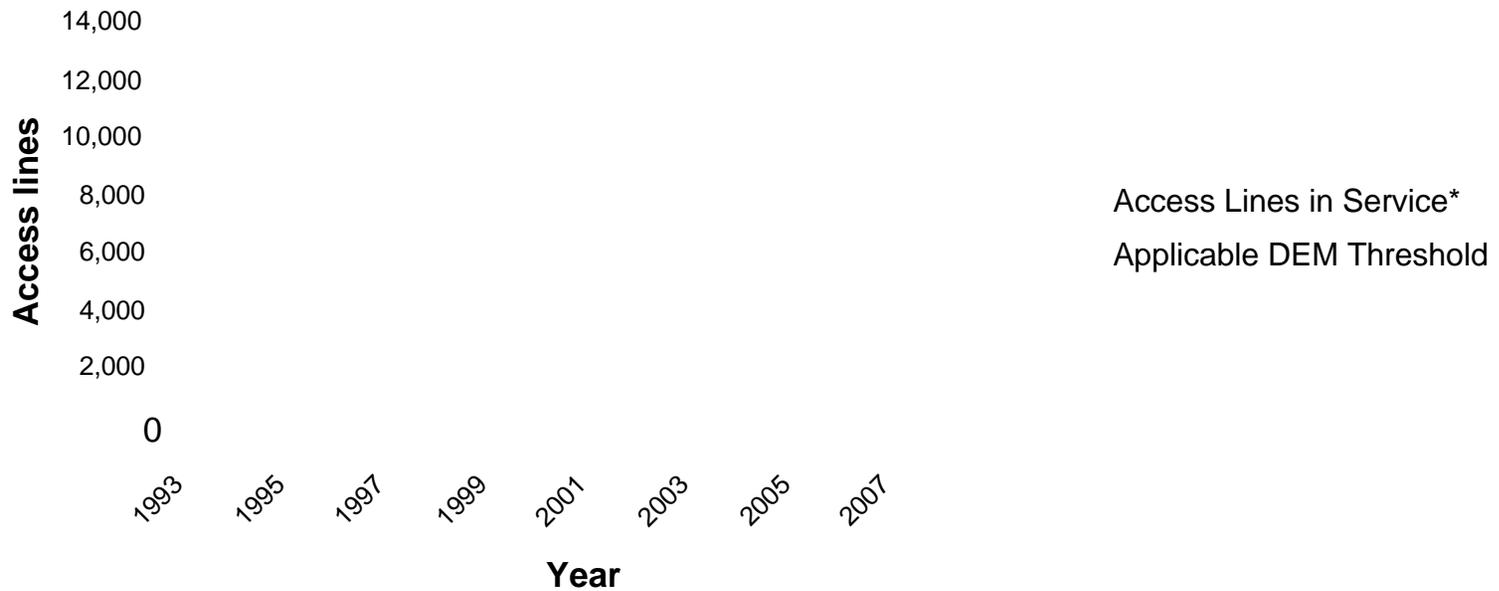


*Source: Actual line counts as of December 31st of each year from 1995 – 2008

**Source: Actual line counts as of December 31, 2008

Background (cont'd)

Ketchikan Public Utility



* Source: Actual line counts as of December 31st of each year from 1995 – 2008

** Source: Actual line counts as of December 31, 2008

Background (cont'd)

- The unintentional result is that LSS support is being calculated using different DEM weighting factors for companies with similar numbers of access lines

	DEM Weighting Factor	
	Named company	All other companies not affected by this inequity in the same size category (# of companies)
➤ Star Telephone	2.0	2.5 (~115 companies)
➤ Ketchikan Public Utilities	2.5	3.0 (~1000 companies)

Implications of granting requested relief

- The FCC has stated that the loss of local switching support would impact “a small carrier’s capacity to ensure that consumers have and maintain access to service at just, reasonable, and affordable rates” and their ability to “provide quality service to consumers.”¹
- By granting the requested relief, the FCC will be supporting the public policy set forth above, making it possible for the affected companies to make investments necessary to advance the Commission's goals of universal service in general and local switching support in particular. In addition, the funds made available by restoring this support would:
 - Enable the creation and maintenance of jobs as the impacted companies would all be more able to keep and employ more workers to improve their networks
 - Promote additional network investments to enable broadband and/or higher speeds of broadband

¹ See, e.g., *Federal-State Joint Board on Universal Service; Dixon Telephone Company; Lexcom Telephone Company; Citizens Telephone Company of Higginsville, Missouri; Petitions for Waiver of Section 54.301 Local Switching Support Data Submission Reporting Date*, Order, 21 FCC Rcd 1717, ¶ 8 (WCB 2006).

Implications of granting requested relief (cont'd)

- While the requested relief will make a very big difference for the individual companies impacted, it is equally important to stress what the requested relief will *not* do:
 - It will not significantly impact the overall size of the Universal Service Fund
 - It will not set a precedent regarding USF reform because it only addresses how companies will be treated within the existing program
 - It will not limit, delay, or jeopardize the ability of the FCC to undertake comprehensive USF reform at a future date

Conclusions

- A temporary and unforeseen phenomenon (these companies' short-term increase in number of lines) resulted in the current patently inequitable circumstance
- The public benefits of addressing this inequity are manifest
- Granting the requested clarification is straightforward and in no way prejudices future USF considerations
- The Coalition requests that the FCC clarify its Part 36 and 54 rules to indicate that after June 30,2006, Local Switching Support DEM weighting factors should be based on current access line counts, and that the Commission revise its rules to more clearly reflect the same
- Time is of the essence