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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Jurisdictional Separations	)	CC Docket No. 80-286
	)	
Coalition for Equity in Switching Support Petition for Reconsideration	)	

REPORT AND ORDER AND MEMORANDUM OPINION AND ORDER

Adopted: March 17, 2010 **Released: March 18, 2010**

By the Commission: Commissioner McDowell concurring.

I. INTRODUCTION

1. In this report and order, we address an inequitable asymmetry in the Commission's current rules governing the receipt of universal service high-cost local switching support (LSS) by small incumbent local exchange carriers (LECs).[1] Under the current rules, which were adopted by the Commission at a time when incumbent LEC lines had largely only increased over time, the amount of LSS that an incumbent LEC may receive decreases when its line counts increase above a particular threshold, but does not increase when its line counts decrease below that same threshold.[2] Since the adoption of these rules, incumbent LEC lines have begun to decrease, and, as a result of the one-way rule, many small LECs that have lost lines receive less support than other LECs with a similar number of lines that face nearly identical circumstances. By modifying our rules to permit incumbent LECs that lose lines to receive additional LSS when they cross a threshold, we will provide LSS to all small LECs on the same basis. We emphasize that nothing in this report and order is intended to address the long-term role of LSS in the Commission's high-cost universal service policies, which we are considering as part of comprehensive universal service reform.[3] We also dismiss the petition for reconsideration filed by the

[1] Pursuant to the LSS meehanism, an incumbent LEC serving 50,000 or fewer lines in a study area may recover a portion of its switching costs through receipt of federal universal service high-cost support. 47 C.F.R. § 54.301. A carrier must be designated as an eligible telecommunications carrier (ETC) to receive federal universal service support, including LSS. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201. Currently, all incumbent LECs are ETCs.

[2] 47 C.F.R. §§ 36.125(j) and 54.301(a)(2)(ii). Together, these provisions are known as the "one-way rule."

[3] The Commission has pending several proceedings related to comprehensive reform of high-cost universal service support, including LSS. *See High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) (*Identical Support Rule Notice*); *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) (*Reverse Auctions Notice*); *High Cost Universal Service Reform; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Contribution Methodology; Numbering Resource Optimization; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Developing a Unified Intercarrier Compensation Regime; Intercarrier Compensation for ISP-Bound Traffic; IP-Enabled Services*, CC Docket Nos. 96-45, 99-200, 96-98, 01-92, 99-68, WC Docket Nos. 05-337, 03-109, 06-122, 04-36, Order on

(continued....)

Coalition for Equity in Switching Support in the jurisdictional separations freeze proceeding.[4] The issues raised in that petition are essentially the same as those raised in its petition for clarification.[5] This decision and the *Coalition Petition Order and LSS NPRM* wholly address those issues, and therefore we dismiss the petition for reconsideration as moot.[6]

II. BACKGROUND

2. Pursuant to the Commission's jurisdictional separations rules,[7] incumbent LECs apportion their switching costs to the interstate jurisdiction based on the ratio of interstate dial equipment minutes of use (DEM) to total DEM.[8] The incumbent LECs then recover their interstate switching costs through interstate tariffs, and recover the remaining intrastate switching costs as provided by the relevant state ratemaking authority. Incumbent LECs serving 50,000 access lines or fewer are permitted to allocate a higher portion of their switching costs to the interstate jurisdiction.[9] The precise amount of the extra allocation depends on a weighting factor determined by the number of access lines served by the incumbent LEC, with key thresholds established at 10,000, 20,000, and 50,000 lines.[10] Prior to 1998, the costs allocated to the interstate jurisdiction, including the higher portion allocated pursuant to DEM weighting, were recovered through interstate access charges. A smaller DEM weighting factor allowed fewer switching costs to be recovered through interstate access charges and a larger DEM weighting factor allowed more switching costs to be recovered through interstate access charges.

3. In the *Universal Service First Report and Order*, the Commission determined that allowing small incumbent LECs to recover switching costs through interstate access charges constituted an implicit support mechanism disfavored by Congress when it adopted the Telecommunications Act of 1996 (the 1996 Act).[11] Accordingly, the Commission created LSS, which provides explicit support through the universal service fund for the additional switching costs allocated to the interstate jurisdiction.[12] In the LSS rules the Commission retained DEM weighting as the method of calculating switching support with minor modifications.[13] The Commission adopted the rule, now codified in nearly identical language at both section 36.125(j) (governing the allocation of switching costs) and section

(...continued from previous page)
Remand and Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6475 (2008) (*Comprehensive Reform FNPRM*).

[4] Coalition for Equity in Switching Support Petition for Reconsideration, CC Docket No. 80-286 (filed June 22, 2009) (Coalition Separations Reconsideration Petition).

[5] Coalition for Equity in Switching Support Petition for Clarification, CC Docket Nos. 80-286 and 96-45 (filed Jan. 8, 2009) (Coalition Clarification Petition).

[6] *See infra* paras. 6-11 and *High-Cost Universal Service Support; Coalition for Equity in Switching Support Petition for Clarification*; WC Docket No. 05-337, Order and Notice of Proposed Rulemaking, 24 FCC Rcd 13004 (2009) (*Coalition Petition Order and LSS NPRM*).

[7] *See* 47 C.F.R. §§ 36.1 *et seq.*

[8] 47 C.F.R. § 36.125(f).

[9] 47 C.F.R. § 36.125(f), (j).

[10] *See* 47 C.F.R. § 36.125(f).

[11] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act). The 1996 Act amended the Communications Act of 1934. 47 U.S.C. §§ 151, *et seq.* (the Act); *see also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8941 n. 777 (1997) (*Universal Service First Report and Order*) (subsequent history omitted).

[12] *Universal Service First Report and Order*, 12 FCC Rcd at 8940-41 paras. 303-04.

[13] *Id.*; *see also* 47 C.F.R. § 54.301.

54.301 (LSS), that "if . . . the number of a study area's access lines increased or will increase such that . . . the weighting factor would be reduced, that lower weighting factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor."[14] Under these rule sections, if an incumbent LEC's access lines exceeded the relevant threshold, the DEM weighting factor would decrease, which would also decrease the amount of LSS received by the incumbent LEC.

4. In the 2001 *Separations Freeze Order*, the Commission froze the jurisdictional allocation factors used by incumbent LECs while it considered comprehensive jurisdictional separations reform.[15] It codified the freeze by adding effective dates, ending June 30, 2006, to each of the relevant rules.[16] In 2006, the Commission adopted the *2006 Separations Freeze Extension Order*, extending the effective date of the freeze to June 30, 2009, or upon the Commission's completion of comprehensive jurisdictional separations reform, whichever occurred earlier.[17] Recently, the Commission adopted an order extending the freeze again, to June 30, 2010.[18]

5. On January 8, 2009, the Coalition for Equity in Switching Support (Coalition) filed a petition asking the Commission to clarify that an incumbent LEC's DEM weighting factor and LSS increase if the carrier's access lines decrease below the thresholds set out in the rules.[19] In the *Coalition Petition Order and LSS NPRM*, the Commission rejected the Coalition's request for clarification, but tentatively concluded that sections 36.125(j) and 54.301(a)(2)(ii) should be amended to permit that result in the future.[20] The Commission sought comment on that tentative conclusion and asked commenters to provide specific data regarding the amount by which such a change will increase universal service high-cost support disbursements, and an analysis as to why any such increase in the size of the universal service fund is justified.[21]

III. DISCUSSION

6. We conclude that our rules should be modified to permit an incumbent LEC's DEM weighting factor to increase as well as decrease when its line counts cross one of the thresholds provided in our rules. As described below, we find that amending the rules will ensure that similarly situated incumbent LECs will be treated similarly under our rules. Although this will increase the total amount of high-cost universal service support disbursed, we find that the increase will not have a significant effect on the overall size of the universal service fund. We emphasize that this relatively minor change to existing rules is not intended to reflect or prejudge our consideration of LSS as part of any comprehensive universal service reform.[22]

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[14] 47 C.F.R. § 36.125(j); *see also* 47 C.F.R. § 54.301(a)(2)(ii).

[15] *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382, 11387-91, paras. 9-14 (2001) (*Separations Freeze Order*).

[16] *Id.* at 11417-30, App. C. The Commission also codified section 36.125(j) in the *Separations Freeze Order*. *Separations Freeze Order*, 16 FCC Rcd at 11420, App. C.

[17] *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Order and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5516, 5523-26, paras. 15-24 (2006) (*2006 Separations Freeze Extension Order*). The Commission did not codify the extension by modifying the text of the rules.

[18] *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 24 FCC Rcd 6162 (2009) (*2009 Separations Freeze Extension Order*).

[19] Coalition Clarification Petition.

[20] *Coalition Petition Order and LSS NPRM*, 24 FCC Rcd 13004.

[21] A list of parties that filed comments in response to the notice of proposed rulemaking is attached at Appendix A.

[22] *See supra* note 3.

7. Based on the record in this proceeding, we find no basis for continuing to provide different amounts of LSS to otherwise similarly situated incumbent LECs solely because one incumbent LEC had previously exceeded a threshold in our rules but the other had not. The LSS mechanism's existence and design are based on the relative inability of small incumbent LECs to achieve economies of scale in switching costs.[23] A small incumbent LEC that has lost a significant number of lines, causing it to cross a DEM weighting threshold, suffers the same lack of economies of scale. We find that such a carrier should, by the logic underpinning the LSS mechanism, receive support in the same manner as a small incumbent LEC with a line count that never crossed a threshold. There is no evidence that the Commission, at the time it adopted the LSS rules, considered the possibility that small incumbent LECs would lose lines and the effect of line loss on LSS. Indeed, as the Coalition has noted, at that time incumbent LEC lines had grown, almost without exception, for more than 50 years.[24]

8. The Coalition has provided evidence that failing to provide the higher level of LSS has caused or threatens to cause small incumbent LEC some hardship.[25] Many affected carriers reportedly crossed above an access line threshold initially because their subscribers took second lines to access dial-up Internet service, and decreased below the threshold as the carriers deployed, and those same customers adopted, advanced services.[26] We find that our current rules that reduce a carrier's LSS when line counts increase without a corresponding increase in LSS when line counts decrease have caused hardship for some small incumbent LEC and may affect the provision or affordability of service to customers.[27]

9. We also find that amending our rules as proposed would not create undue growth in universal service support that would threaten the fund.[28] The National Exchange Carrier Association (NECA), which collects cost and line count data for many of the carriers that could be affected by the DEM weighting one-way rule, estimates that changing the one-way rule would increase LSS by approximately $27 million per year.[29] The Coalition estimates that the increase would be only $19 million, based on support estimates for 2009.[30] Using NECA's larger estimate would create an increase of approximately 0.3 percent to the total universal service fund, and about 0.6 percent to the high-cost

[23] *Universal Service First Report and Order*, 12 FCC Rcd at 8892-93 para. 212.

[24] Coalition Clarification Petition at 11.

[25] *Id.* at 3-7; Letter from John Logan, Counsel to the Coalition for Equity in Switching Support, to Marlene Dortch, Federal Communications Commission, WC Docket No. 05-337, CC Docket No. 80-286 (dated Apr. 30, 2009).

[26] *See* Brazoria Telephone Company Comments at 3; Bulloch County Telephone Company Comments at 3-4; John Staurulakis, Inc. Comments at 3; TCA Comments at 3.

[27] *See, e.g.*, Coalition Reply Comments at 10-12 (noting that some of the affected incumbent LECs have had to lay off employees or defer maintenance or upgrades to network facilities, which ultimately results in lower quality service for customers, or delay the deployment of broadband and other advanced services that are available to customers in urban areas); Letter from Ron Strecker, CEO, Panhandle Telephone Cooperative, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-337 at 2 (dated Apr. 20, 2009) (stating that "[t]he 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. The financial squeeze will force some of these small local telephone companies to defer network upgrades (threatening their ability to maintain the quality of service they currently offer to customers), consider laying off employees, or raise local rates to levels that threaten the continued affordability of local telephone service for those that most need it.").

[28] *See* Sprint Nextel Comments at 2-3.

[29] NECA *et al.* Comments at 3. There will be no increase in LSS for competitive ETCs because competitive ETC support is capped pursuant to the *Interim Cap Order*. *See generally High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order, 23 FCC Rcd 8834, (2008) (*Interim Cap Order*).

[30] Coalition Comments at 9-10.

portion of the fund.[31] Although we do not take lightly any increase to the amount of universal service support disbursed, we find that this change will not have a significant impact on the overall size of the fund.

10. CTIA argues that the Commission should not adopt these rule changes because modern switching technology is less expensive and more scalable than traditional circuit switches.[32] We do not take any position on the substance of these arguments, but note that, to the extent they apply, they apply broadly to the entire LSS mechanism and not merely to the rule changes we adopt here. For that reason, we find that CTIA's arguments would be better raised and addressed in a comprehensive universal service reform proceeding. CTIA also argues that the current record fails to address how the proposed change to LSS addresses the principle of affordability in section 254 of the Act.[33] As discussed above, commenters have provided evidence that the rule changes will have minimal effect on the overall size of the universal service fund. Moreover, as stated above, there is record evidence indicating that the current rule has caused some carriers hardship and may impact the provision or affordability of service to customers.[34] In addition, absent these rule changes, similarly situated incumbent LECs will continue to receive disparate amounts of LSS. Therefore, we find that adoption of the rule changes comports with the requirements of the Act that consumers in high-cost areas have access to reasonably comparable services at reasonably comparable rates to those available to consumers in other areas of the country.[35]

11. We conclude that the rule changes we adopt in this report and order should be implemented for the full 2010 LSS funding year.[36] Several parties ask that we make the rule changes effective for 2008 and 2009 because true-ups for those years have yet to occur.[37] We decline to do so. Generally, rules adopted by administrative agencies may be applied prospectively only.[38] The 2008 and 2009 funding years have ended. While it is true that 2008 and 2009 LSS true-ups have yet to be performed, that does not change the fact that the funding periods have passed, and thus, application of the new methodology to those years would be improper retroactive rulemaking. The Coalition's argument that the Commission has made similar changes to future support based on data from earlier periods in the

[31] For the first quarter of 2010, the Universal Service Administrative Company (USAC) projected total universal service demand and expenses as approximately $2.1 billion, and high-cost support at approximately $1.1 billion. *Proposed First Quarter 2010 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 09-2588 (Off. of Man. Dir., rel. Dec. 11, 2009); *c.f. US WEST Communications, Inc., and Eagle Telecommunications, Inc., Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules*, AAD 94-27, Memorandum Opinion and Order, 10 FCC Rcd 1771, 1774, paras. 14-17 (1995) (evaluating whether a study area boundary change will have an adverse impact on the universal service fund by analyzing whether a study area waiver will result in an annual aggregate shift in an amount equal to or greater than one percent of universal service high-cost support in the most recent calendar year).

[32] CTIA Comments at 5.

[33] *Id.* at 7.

[34] *See supra* note 27.

[35] 47 U.S.C. § 254(b)(3).

[36] LSS is provided on an annual, calendar-year basis. 47 C.F.R. § 54.301. The rule changes we adopt here will apply to the LSS that carriers receive beginning in January 2010. For that reason, we do not find it necessary to waive "enforcement of the existing LSS regulations as of January 1, 2010," as requested by the Coalition. *See* Letter from Antoinette C. Bush, Counsel to the Coalition for Equity in Switching Support, to Marlene H. Dortch, FCC, WC Docket No. 05-337 (dated Feb. 18, 2010).

[37] Alaska Telephone Association Comments at 2; Comporium Comments at 3; Harrisonville Telephone Company Comments at 4; Iowa Telecommunications Association at 2; NECA Comments at 7.

[38] *See, e.g., Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988).

high-cost loop support mechanism is inapplicable in the LSS context.[39] Under the high-cost loop support mechanism, support payments are made based on historical data. For example, 2010 high-cost loop support is calculated based on 2008 cost and loop data. Thus, a similar type of rule change to the high-cost loop support mechanism would necessarily incorporate past year data due to the different calculation and data method used. That is not the case with LSS, which uses projected data for the current funding period. Accordingly, we decline to apply these rule changes to prior LSS funding years. Consistent with comments made by CTIA, however, we modify our proposed rules to make the implementation period explicit in the text of the rules.[40] Additionally, to ensure that ETCs receive disbursements for the current support year as soon as possible under the new rules, we find good cause for this report and order to be effective upon publication in the Federal Register.[41] Similarly, we grant incumbent LECs that are affected by these rule changes a waiver of the October 1, 2009 deadline by which incumbent LECs must file their 2010 projected data with USAC pursuant to section 54.301(b) of the Commission's rules, and by which states must certify that affected ETCs' support will be used only for the provision, maintenance and upgrading of facilities and services for which the support is intended, if the certifications were not previously filed.[42] Such incumbent LECs and states must file their projected data and certifications with USAC within 60 days of the effective date of this report and order.

12. Finally, we dismiss the Coalition's petition for reconsideration of the *2009 Separations Freeze Extension Order* as moot.[43] Specifically, the Coalition asked the Commission to reconsider its decision not to modify the one-way rule when it extended the separations freeze to June 30, 2010.[44] We find that the issues raised in the Coalition's separations reconsideration petition are essentially the same as those raised in the its petition for clarification and are wholly addressed in the *Coalition Petition Order and LSS NPRM* and in this report and order.

IV. PROCEDURAL MATTERS

A. Paperwork Reduction Analysis

13. This report and order does not contain new, modified, or proposed information collections subject to the Paperwork Reduction Act of 1995.[45] In addition, therefore, it does not contain any new, modified, or proposed "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002.[46]

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[39] Letter from Antoinette C. Bush, Counsel to the Coalition for Equity in Switching Support, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-337 (dated Jan. 11, 2010). The Coalition relies on the *Rural Task Force Order*, in which the FCC rebased high-cost loop support for rural telephone companies. *See Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers,* 16 FCC Rcd 11244, 11262-11266 (rel. May 23, 2001). The rules adopted in that order were applied prospectively only. The Commission did not alter the amount of support that carriers received in prior years. *See id.* at 11262, para. 40 ("Effective July 1, 2001, rural carriers shall receive" rebased high-cost loop support); *see also* 47 C.F.R. §§ 36.602, 36.603.

[40] *See* Appendix B.

[41] 5 U.S.C. § 553(d)(3); 47 C.F.R. § 1.427(b).

[42] 47 C.F.R. §§ 54.301(b), 54.314.

[43] *See* Coalition Separations Reconsideration Petition.

[44] *Id.*

[45] Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163 (1995).

[46] Small Business Paperwork Relief Act of 2002, Pub. L. No. 107-198, 116 Stat. 729 (2002); 44 U.S.C. § 3506(c)(4).

B. Final Regulatory Flexibility Act Certification

14. The Regulatory Flexibility Act of 1980, as amended (RFA)[47] requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities."[48] The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[49] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[50] A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[51]

15. In this report and order, the Commission modifies its LSS rules. Pursuant to the "one-way rule," a small incumbent LEC receives less LSS when the number of access lines it served increased above certain thresholds, but does not receive more LSS when the number of access lines it served decreased below the same thresholds. In this report and order, the Commission changes its rules to provide LSS based on the incumbent LEC's current period line counts without regard for whether the LEC's lines had ever exceeded a line-count threshold. This rule change can only provide an incumbent LEC with more universal service support and the administrative burdens associated with complying with the Commission's rules will not change. Therefore, we certify that the requirements of this report and order will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the report and order, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.[52] In addition, the report and order and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the Federal Register.[53]

C. Congressional Review Act

16. The Commission will send a copy of this report and order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.[54]

V. ORDERING CLAUSES

17. Accordingly, it is ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i), 4(j), 201-205, 214, 220, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 201-205, 214, 220, and 254, this report and order IS ADOPTED.

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[47] The RFA has been amended by the Contract With America Advancement Act of 1996. *See* 5 U.S.C. § 601 *et. seq.*; Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[48] 5 U.S.C. § 605(b).

[49] 5 U.S.C. § 601(6).

[50] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. § 632). Pursuant to section 601(3) of the RFA, 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 comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." 5 U.S.C. § 601(3).

[51] Small Business Act, § 15 U.S.C. § 632.

[52] *See* 5 U.S.C. § 801(a)(1)(A).

[53] *See* 5 U.S.C. § 605(b).

[54] *See* 5 U.S.C. § 801(a)(1)(A).

18. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i), 4(j), 201-205, 214, 220, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 201-205, 214, 220, and 254, the petition for reconsideration filed by the Coalition for Equity in Switching Support IS DISMISSED as discussed herein.

19. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this report and order, including the Final Regulatory Flexibility Act Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

20. IT IS FURTHER ORDERED that this report and order shall be effective upon publication in the Federal Register, pursuant to 5 U.S.C. § 553(d)(3) and section 1.427(b) of the Commission's rules, 47 C.F.R. § 1.427(b).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch

Marlene H. Dortch
Secretary

APPENDIX A

Initial Comments

Commenter	Abbreviation
Alaska Telephone Assn.	
Alexicon Telecommunications Consulting	
Brazoria Telephone Company	
Bulloch County Rural Telephone Cooperative, Inc.	Bulloch
Canby Telephone Assn., dba Canby Telcom	Canby
Coalition for Equity in Switching Support	
Bixby Telephone Co.	
Chequamegon Communications Cooperative, Inc.	
Cross Telephone Co.	
Farmers Telephone Cooperative, Inc.	
Granite State Telephone, Inc.	
Hargray Telephone Co., Inc.	
Ketchikan Public Utilities	
Northeast Florida Telephone Co.	
Randolph Telephone Membership Corp.	
Roanoke & Botetourt Telephone Co.	
Star Telephone Membership Corp.	
Telephone Service Co. of Ohio	
Vermont Telephone Co., Inc.	
Waitsfield & Champlain Valley Telecom	
Warwick Valley Telephone Co.	Coalition or Equity Coalition
CTIA-The Wireless Assn.	CTIA
Dickey Rural Telephone Cooperative	Dickey Rural
Dunkirk & Fredonia Telephone Co.	Dunkirk & Fredonia
Farmers Telephone Cooperative, Inc.	
Granite State Telephone, Inc.	GSI
GTA Telecom, LLC	GTA
GVNW Consulting, Inc.	GVNW
Harrisonville Telephone Co.	Harrisonville
Hart Telephone Co.	Hart
Hill Country Telephone Cooperative, Inc.	
Iowa Telecommunications Assn.	ITA
John Staurulakis, Inc.	JSI
Mid-Communications, Inc. dba HickoryTech	Mid-Com
National Exchange Carrier Assn., Inc.	NECA
National Telecommunications Cooperative Assn.	NTCA
Organization for the Promotion & Advancement Of Small Telecommunications Companies	OPASTCO
Eastern Rural Telecom Assn.	ERTA
Western Telecommunications Alliance	WTA
Public Service Telephone Co.	
Ringgold Telephone Co.	
Rock Hill Telephone Co. d/b/a Comporium	Comporium
Sprint Nextel Corp.	Sprint
TCA	TCA
Texas Statewide Telephone Cooperative, Inc.	TSTCI
Vermont Telephone Co., Inc.	

West Kentucky & Tennessee Telecommunications Cooperative	WK&T
Wood County Telephone Co., Inc.	

Reply Comments

Commenter	Abbreviation
Coalition for Equity in Switching Support	Coalition
Granite State Telephone, Inc.	GST
John Staurulakis, Inc.	JSI
Worldcall Interconnect, Inc.	WCX

APPENDIX B
Proposed Rules

PART 36 - JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for Part 36 continues to read as follows:

AUTHORITY: 47 U.S.C. Secs. 151, 154(i) and (j), 205, 221(c), 254, 403, and 410.

Subpart B – Telecommunications Property

2. Amend Section 36.125 by revising paragraph (j) to read as follows:

(j) If the number of a study area's access lines increases such that, under section 36.125(f) of this part, the weighted interstate DEM factor for 1997 or any successive year would be reduced, that lowered weighted interstate DEM factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor. If the number of a study area's access lines decreases or has decreased such that, under section 36.125(f) of this part, the weighted interstate DEM factor for 2010 or any successive year would be raised, that higher weighted interstate DEM factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor.

PART 54 – UNIVERSAL SERVICE

3. The authority citation for Part 54 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154(i), 201, 205, 214,

and 254 unless otherwise noted.

Subpart D – Universal Service Support for High-Cost Areas

4. Amend Section 54.301 by revising paragraph (a)(2)(ii) to read as follows:

(a)(2)(ii) If the number of a study area's access lines increases such that, under section 36.125(f) of this part, the weighted interstate DEM factor for 1997 or any successive year would be reduced, that lowered weighted interstate DEM factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor. If the number of a study area's access lines decreases or has decreased such that, under section 36.125(f) of this part, the weighted interstate DEM factor for 2010 or any successive year would be raised, that higher weighted interstate DEM factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor.