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**Public Service Commission**

February 23, 2001

**VIA AIRBORNE EXPRESS**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW - TW-A325  
Washington, DC 20554

Re: **Florida Public Service Commission Comments Opposing the Proposal of  
the Federal-State Joint Board on Universal Service; CC Docket No. 96-45**

Dear Ms. Salas:

Enclosed please find the original and five (5) copies of the Florida Public Service Commission Reply Comments in the above-noted docket. Please date stamp and return one copy in the enclosed self-addressed envelope.

Sincerely,

Cynthia B. Miller, Esquire  
Bureau of Intergovernmental Liaison

CBM:tf  
Attachment

cc: Brad Ramsay, National Association of Regulatory Utility Commissioners  
Sheryl Todd, FCC Accounting Policy Division (with diskette)  
Judy Boley, FCC Office of Management and Budget  
International Transcription Service (with diskette)

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

In the Matter of: )  
 )  
 )  
Federal-State Joint Board on ) CC Docket No. 96-45  
Universal Service )  
 )

**COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION  
OPPOSING THE PROPOSAL OF THE FEDERAL STATE JOINT BOARD ON  
UNIVERSAL SERVICE**

The Florida Public Service Commission (FPSC) submits these comments in opposition to the Further Notice of Proposed Rulemaking (FCC 01-8) released on January 12, 2001. In this Notice, the FCC seeks comment on the Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board) regarding the Rural Task Force's (RTF) plan for reforming the rural universal service support mechanism. The FPSC disagrees with the conclusions of the Joint Board that the RTF recommendation represents a good foundation for implementing rural universal service reform. The FCC must ensure that before any increased funding is authorized, there is indeed a need for such an increase. In addition, the FCC has a duty to ensure that the mechanism is implemented in the most cost-effective manner. It appears to us that the RTF's proposal has not met these criteria.

**Summary of the RTF Proposal**

The RTF was directed to provide assistance in identifying the issues unique to rural carriers and to analyze the appropriateness of proxy cost models for rural carriers.<sup>1</sup> It was clear that the RTF was requested to present a report to the Joint Board that makes specific recommendations on a rural forward-looking economic cost (FLEC) mechanism.<sup>2</sup> The FCC specified in its May 8, 1997, Report and Order that the Task Force was to consider whether a FLEC mechanism for rural carriers should have different platform design features or input values than the mechanism adopted for non-rural carriers.<sup>3</sup>

The RTF submitted its recommendation to the Joint Board on September 29, 2000. Its primary recommendation was not to specify a range of inputs or modifications to the underlying model that is currently used for non-rural carriers. Instead, the RTF dispensed with consideration of a FLEC mechanism and recommended enlarging the existing rural company high cost mechanism by removing the effects of caps placed on it in prior years. The existing

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<sup>1</sup> FCC 97J-1; CC Docket No. 96-45, Par. 1.

<sup>2</sup> FCC 97J-1; CC Docket No. 96-45, Par. 2.

<sup>3</sup> FCC 97-157; CC Docket No. 96-45, Par. 254-255.

mechanism for rural study areas bases support on embedded costs. The overall fund size is allowed to increase as new lines are placed in service. In addition, the amount of corporate operations expenses included in calculating a study area's support is limited. The RTF proposes "rebasings" rural study area support as though these caps had not been in effect.

This "rebasings" would increase the current support available to rural study areas by approximately \$118.5 million. This amount would be allowed to grow annually in proportion to both growth in access lines and in inflation. Further, a special provision called a "safety net," would allow a carrier to include a portion of additional costs incurred when the company's plant in service grows more than 14% annually. Additional funding for investments made after acquiring exchanges from other carriers is also available through a so-called "safety valve mechanism." The RTF's proposal also includes protection from the costs of catastrophic events such as floods, fires, and other natural disasters. All of these components have been filed as a "take-it-or-leave-it" proposal with a five-year term limit. As described below, this increase is simply not warranted.

**Sufficiency Requirements in the Act**

Section 254(b)(5) of the Telecommunications Act states that "There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service." There has been no showing of the need for expanding rural support. It seems incumbent upon the RTF proponents to provide evidence that their proposal will produce sufficient, and only sufficient, federal support for study areas that require support. This has not been accomplished. The RTF recommendation results in an overall increase in the size of the fund, without a reasonable showing that such an increase is necessary to meet the goals of universal service. The FCC itself has noted that "the primary role of federal high-cost support is to enable reasonable comparability of rates among states,"<sup>4</sup> while at the same time, maintaining "the objective that the fund not be any larger than is necessary to achieve the various goals of section 254."<sup>5</sup> Any high-cost federal universal service support mechanism should provide each area no more than the amount of support needed to enable the relevant state to ensure reasonably comparable rates among states.

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<sup>4</sup> NINTH REPORT & ORDER AND EIGHTEENTH ORDER ON RECONSIDERATION, CC Docket 96-45, Adopted: October 21, 1999, Released: November 2, 1999, Par. 7.

<sup>5</sup> NINTH REPORT & ORDER AND EIGHTEENTH ORDER ON RECONSIDERATION, CC Docket 96-45, Adopted: October 21, 1999, Released: November 2, 1999, Par. 59.

The RTF's proposal, however, does not offer any evidence that its modifications to the embedded high cost mechanism will produce only "sufficient" support in rural company study areas. The RTF's attempts to compare rural and non-rural carriers costs is inappropriate and misses the competitive neutrality goals of the Act. Specifically, Section 254(e) does not talk about support for rural carriers separately from support to non-rural carriers, but instead it discusses support for eligible telecommunications carriers. The amount of funding should not necessarily depend on the size of the serving carrier.

The FPSC acknowledges the importance of the preservation and advancement of universal telephone service as one of the fundamental principles of the Telecommunications Act of 1996. The FCC has a significant responsibility to balance the needs of universal telephone service while ensuring that the high cost fund is no larger than necessary. We would note that the high cost fund has grown by approximately \$740 million since the passage of the 1996 Act.<sup>6</sup> Without sufficient proof, the FCC should not assume that the existing support is not adequate to meet these objectives. There should not be a presumption of inadequate funding. The FCC

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<sup>6</sup> Universal Service Monitoring Report, CC Docket 96-45, September 2000, Tables 3.2, 3.7, 3.8, and 3.9.

must ensure that before any increased funding is authorized, there is indeed a need for such an increase. In addition, the FCC has a duty to ensure that the mechanism is implemented in the most cost-effective manner. It appears to us that the RTF's proposal has not met these criteria.

### **Balance of Interests**

The RTF has maintained that its proposal should be considered in its entirety as an integrated package because it is a consensus product. The RTF's proposal is not the first plan that the FCC has received where its sponsors have asserted the need to accept the proposal as is without any modifications. The FCC did not capitulate to such assertions with the initial CALLS proposal, nor should it now with the RTF plan. We believe that the FCC must abide by the requirements of the Act and evaluate each component of any proposal that is brought before it.

As part of this integrated package, the plan calls for a five-year window of stability to facilitate investment. While we agree with the desirability of increased investment in rural areas, there may be instances where modifying the length of this proposal is warranted. Specifically, further development of the model and appropriate inputs may demonstrate that the amount of support is

excessive. If so, it should be terminated before the 5 years. Thus, there needs to be a two-year check point.

### **Disaster Relief**

The FPSC also questions the need for a special provision for disaster relief. This commission is concerned about the appropriateness of establishing a special disaster fund only for rural carriers when disaster insurance is available. This commission believes that it is the responsibility of the provider to obtain insurance as part of their business plan, not the goal of universal service. Furthermore, we would question why it is appropriate for rural carriers to receive this form of support, when non-rural carriers do not.

### **Conclusion**

In conclusion, the FPSC opposes the RTF proposal. We have serious concerns regarding its impact on ratepayers. The FPSC is not persuaded there has been a sufficient demonstration of need for the proposed increase in the RTF proposal. To the extent that the FCC moves forward with this or other similar proposals, we would urge the FCC to ensure that there is indeed a need for such an increase before any increased funding is authorized.

Respectfully submitted,



Florida Public Service Commission  
CC Docket No. 96-45  
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DATED: February 23, 2001

**Certificate of Service**

I HEREBY CERTIFY that a true and correct copy of the foregoing Comments of the Florida Public Service Commission will be furnished to the parties on the attached service list.

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Cynthia B. Miller, Esquire  
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