STATEMENT OF
COMMISSIONER KEVIN J . MARTIN

Re: *Federal-State Joint Board on Universal Service;* **CC Docket No. 96-45**

AT&T Petition For Waiver

I disagree with today's decision by the Wireline Competition Bureau to deny AT&T's request to contribute to universal service based on its projected, rather than its historical, revenues.

Under the FCC's rules that govern universal service contributions, carrier payments to the fund are based on a snapshot of interstate revenues during the previous six months. Over time, increased competition, regional Bell company entry into the interexchange market, and changes in the marketplace have continued to reduce the interstate revenues of the traditional interexchange carriers.

The Commission's rules now place certain interexchange carriers—such as AT&T—that face declining revenues at a distinct competitive disadvantage. To comply with the Commission's rules, carriers with declining interstate revenues must collect a greater share of universal service contributions from a shrinking customer base. In particular, consumers of these long distance carriers have been required to contribute a disproportionate and inequitable share to ensure the preservation and advancement of universal service. AT&T's long distance customers, for example, now face a monthly federal universal service fund surcharge that stands at over 11%, while the FCC's contribution rate is set within the 7% range. While AT&T's customers bear this burden, customers of new entrant long-distance providers (e.g., Bell operating companies) have the unfair benefit of supporting the fund at or below the FCC contribution rate.

I am concerned that the Commission has been aware of the magnitude of this problem for quite some time and yet has failed to act. In April 2001, the Commission adopted a Notice of Proposed Rulemaking that acknowledged the inequities of the current system and sought comment on specific proposals to address comprehensive reform of the universal service contribution system. Eight months later, with no permanent relief in sight, AT&T filed its petition for waiver for an immediate interim fix so that it could contribute to universal service based on projected revenues.

I supported granting AT&T's waiver last December and would have supported granting all similarly situated carriers similar relief. Granting the waiver would have, at a minimum, provided immediate relief for at least 50 million long distance customers nationwide while the Commission continued to deliberate on a more permanent solution to the contribution methodology issue. In addition, it would have set the groundwork for creating a more equitable contribution system by closing the gap on the contribution obligations of different service providers and their end-user customers. This measure would have also brought us one step closer to establishing a more level playing field for contributions amongst carriers providing interstate services in the marketplace.

In my view, by waiting six months to address AT&T's waiver request the Commission has created greater uncertainty in the marketplace and has exacerbated an already troublesome situation. With each passing day, AT&T's competitive disadvantage resulting from universal service contributions grows as the Bell Operating Companies continue to receive 271 long distance authority throughout the country and gain significant long distance market share. In general, I support Commission's policies that encourage service providers to compete for service offerings based on market factors such as price, service quality, and convenience but do not favor policies that advantage certain competitors through distortions and loopholes in our regulatory framework.

Unfortunately, I am not as confident that a permanent solution is right around the corner. I would have therefore granted AT&T's petition for waiver last December and would do so again now.

Maintaining a specific, predictable and sufficient universal service funding mechanism is a vital responsibility of the Commission. I support the Commission's efforts to address the long-term issues created by a converging and competitive marketplace. I do not believe, however, that we should stop making on-going adjustments to the current mechanism to address competitive inequities while we spend months and/or years grappling with the longer term problems. I believe we have a duty to address such immediate and mid term problems as well as the long term ones.

Accordingly, I disagree with the result of the Bureau's Order.