

**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)	
)	

RECOMMENDED DECISION

Adopted: December 22, 2000

Released: December 22, 2000

By the Federal-State Joint Board: Joint Board Chairman Ness and Commissioners Furtchgott-Roth and Tristani issuing separate statements; Joint Board State Chairman Schoenfelder and Commissioner Rowe concurring and issuing separate statements; Public Counsel Hogerty concurring in part and dissenting in part and issuing a separate statement; Chairman Wood issuing a statement at a later date.

I. INTRODUCTION

1. In this Recommended Decision, we send to the Commission the Rural Task Force Recommendation that can serve as a good foundation for implementing a rural universal service plan that benefits consumers. Generally, we find that the Rural Task Force sought to achieve the goals of the Telecommunications Act of 1996 to preserve and advance universal service, facilitate competition in rural areas, and provide a predictable level of universal service support.¹ Moreover, we believe that implementation of the Rural Task Force's framework would provide a stable environment for rural carriers to invest in rural America.

II. BACKGROUND

A. Statutory Requirements

2. In the 1996 Act, Congress established a number of principles for the preservation and advancement of universal service in a competitive telecommunications environment. In particular, section 254 of the 1996 Act provides that consumers in all regions of the Nation, including consumers in rural, insular, and high-cost areas, should have access to telecommunications services at rates that are affordable and reasonably comparable.² Section 254 also provides that access to advanced telecommunications and information services should be provided in all regions of the Nation, and that federal universal service support mechanisms should be specific, predictable, and sufficient to preserve and advance universal service.³ The Commission adopted the additional principle that federal support mechanisms should be competitively neutral, neither unfairly advantaging nor disadvantaging particular

¹ 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.*

² 47 U.S.C. § 254(b)(3).

³ *Id.* at §§ 254(b)(2), (5).

service providers or technologies.⁴ Federal universal service policies should strike a fair and reasonable balance among these principles or goals enumerated in section 254 of the 1996 Act.⁵ The 1996 Act also requires the Commission to consult with the Federal-State Joint Board on Universal Service (Joint Board) in implementing section 254.⁶

B. Prior Joint Board and Commission Actions

3. Pursuant to the 1996 Act, the Joint Board provided its first set of recommendations regarding universal service to the Commission in November 1996.⁷ Based on these recommendations, the Commission adopted the *First Report and Order* in May 1997.⁸ Among other things, the Commission concluded that federal universal service support for all carriers, both rural and non-rural,⁹ should be based on the forward-looking economic cost of constructing and operating the network used to provide the supported services, rather than each carrier's embedded costs.¹⁰ The Commission explained that using forward-looking economic costs provides sufficient support without giving carriers an incentive to inflate their costs or to refrain from efficient cost cutting.

4. Nevertheless, the Commission adopted the Joint Board's recommendation that rural carriers not use a cost model or other means of determining forward-looking economic cost immediately to calculate their support for serving rural high-cost areas.¹¹ The Commission agreed with the Joint Board that, compared to the large non-rural carriers, "rural carriers generally serve fewer subscribers, serve more sparsely populated areas, and do not generally benefit as much from economies of scale and scope. For many rural carriers, universal service support provides a large share of the carriers' revenues, and thus,

⁴ See *id.* at § 254(b)(7); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8801-03 paras. 46-51 (1997) (*First Report and Order*) (subsequent history omitted).

⁵ *First Report and Order*, 12 FCC Rcd at 8803 para. 52.

⁶ See 47 U.S.C. § 254(a).

⁷ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 12 FCC Rcd 87 (Jt. Bd. 1996) (*First Recommended Decision*).

⁸ *First Report and Order*, 12 FCC Rcd 8776.

⁹ "Rural carriers" are local exchange carriers (LECs) that meet the definition of a rural telephone company contained in section 153(37) of the 1996 Act, and "non-rural carriers" are LECs that do not meet this definition. 47 U.S.C. § 153(37).

¹⁰ *First Report and Order*, 12 FCC Rcd at 8899-901 paras. 224-229. At the time of the *First Report and Order*, three federal universal service support mechanisms provided support for rural and non-rural carriers, for the most part based on embedded costs averaged over entire study areas. The high-cost loop support and Local Switching Support (formerly DEM Weighting) programs under Part 36 of the Commission's rules provided support for intrastate-allocated costs. See *infra* notes 21-22. The Long Term Support program provided support for interstate-allocated costs. See *infra* note 22. These three support mechanisms currently provide approximately \$1.568 billion in annual high-cost support to over 1,300 rural carriers. See Letter from D. Scott Barash, Vice President and General Counsel, Universal Service Administrative Company (USAC), to Magalie Roman Salas, FCC, dated November 2, 2000, at Appendix HC 3 (USAC 1st Quarter 2001 Projections). The Commission's new, forward-looking high-cost support mechanism for non-rural carriers became effective on January 1, 2000. *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432, 20439 (1999) (*Ninth Report and Order*), *pets. for review pending sub nom., Qwest Corp. v. FCC*, 10th Cir. No. 99-9546 and consolidated cases (1999).

¹¹ *First Report and Order*, 12 FCC Rcd at 8934 para. 291.

any sudden change in the support mechanisms may disproportionately affect rural carriers' operations."¹² Accordingly, working with rural carriers and their associations, the Commission stated that it would not implement forward-looking support for rural carriers before January 1, 2001, and only after selecting an appropriate high-cost support mechanism based on recommendations from the Joint Board and a Rural Task Force appointed by the Joint Board.¹³ In recommending a proxy model as a framework for determining non-rural carrier high-cost support, the Joint Board emphasized that it did "not intend for the Commission to create any precedent for any potential revisions to support mechanisms for rural carriers."¹⁴ In this regard, the Commission agreed with the state Joint Board members that a task force "should provide valuable assistance in identifying the issues unique to rural carriers and analyzing the appropriateness of proxy cost models for rural carriers."¹⁵

C. Rural Task Force Recommendation

5. The Joint Board announced the creation of the Rural Task Force in September 1997, and appointed the Rural Task Force members in July 1998.¹⁶ The Joint Board requested that the Rural Task Force provide its recommendations no later than nine months after the implementation of the forward-looking high-cost mechanism for non-rural carriers, which became effective on January 1, 2000.¹⁷ Accordingly, the Rural Task Force presented its Recommendation to the Joint Board on September 29, 2000.¹⁸ The Recommendation represents the consensus of individual Rural Task Force members, who work for a broad range of interested parties, including rural telephone companies, competitive local exchange carriers, interexchange carriers, wireless providers, consumer advocates, and state and federal government agencies. The Rural Task Force offers its Recommendation as an integrated package, and asks that it be adopted without modification. It urges that the Recommendation be implemented immediately and remain in place over a five-year period. The Recommendation is attached as Appendix A to this Recommended Decision.¹⁹ Below, we summarize salient features of the Recommendation.

6. The Rural Task Force recommends against using the Commission's forward-looking high-cost mechanism for non-rural carriers to distribute high-cost support for rural carriers.²⁰ Instead, it recommends the use over the next five years of a modified version of the current high-cost loop support

¹² *Id.* at 8936 para. 294.

¹³ *Id.* at 8917 para. 252-53, 8936 para. 294.

¹⁴ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Second Recommended Decision, 13 FCC Rcd 24744 at 24758 para. 30 (Jt. Bd. 1998) (Second Recommended Decision).

¹⁵ *Id.* at 8917 para. 253; *see also id.* at para. 255; *Second Recommended Decision*, 13 FCC Rcd 24744 at para. 30 (Jt. Bd. 1998).

¹⁶ *See Federal-State Joint Board on Universal Service Announces Rural Task Force Members*, CC Docket No. 96-45, Public Notice, FCC 98J-1 (Jt. Bd. rel. July 1, 1998); *Federal-State Joint Board on Universal Service Announces the Creation of a Rural Task Force*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 15752 (Jt. Bd. 1997).

¹⁷ *See id.*

¹⁸ Letter from William R. Gillis, Chair, Rural Task Force, to Magalie Roman Salas, FCC, dated September 29, 2000 (Rural Task Force Recommendation or Recommendation).

¹⁹ Appendix A; *see also* Rural Task Force web site at www.wutc.wa.gov/rtf/rtfpub.nsf?open.

²⁰ The Rural Task Force emphasizes that its Recommendation applies only to rural, insular, and high-cost areas served by rural carriers, and not to areas served by non-rural carriers. *See* Appendix A at 18.

mechanism under Part 36 of the Commission's rules, based on carriers' embedded costs.²¹ In addition, the Rural Task Force recommends continuation of the Long Term Support (LTS) and Local Switching Support (LSS) programs.²²

7. The Rural Task Force's proposed modifications to the high-cost loop support mechanism include various upward adjustments to current limits on universal service support for rural carriers, including (a) recomputing the indexed cap on high-cost loop support²³ and the corporate operations expense limitation²⁴ as if the caps had not been in effect for the calendar year 2000,²⁵ (b) providing above-the-cap "safety net additive" support for carriers with over 14 percent growth in telecommunications plant in service on a per-line basis, and (c) creating a "safety valve" to provide additional support for "meaningful investment" in acquired telephone exchanges.²⁶ The Rural Task Force also recommends that per-line universal service support payment levels within a study area become fixed once a competitive

²¹ High-cost loop support under Part 36 provides support for a variable percentage of carriers' unseparated loop costs, as reflected in their books, depending on the number of working loops they serve and the degree to which their costs exceed the national average cost per loop. *See* 47 C.F.R. §§ 36.601, *et. seq.*; *First Report and Order*, 12 FCC Rcd at 8891-92 paras. 209-11. Specifically, carriers with 200,000 or fewer working loops receive support equal to 65 percent of that portion of their unseparated loop costs exceeding 115 percent of the national average but not greater than 150 percent of the national average, and 75 percent of that portion of their unseparated loop costs exceeding 150 percent of the national average. For carriers with greater than 200,000 working loops, the formula is similar, but with reduced levels of support. For example, a carrier with 200,001 loops reaches the 75 percent support level only for costs that are greater than 250 percent of the national average. The national average is calculated based on the loop costs of both rural and non-rural carriers. The term "unseparated" refers to costs as calculated before applying the jurisdictional separations process, which divides between the state and federal jurisdictions the costs of those portions of local exchange carriers' telephone plant that are used for intrastate and interstate services. *See* 47 C.F.R. § 36.631.

²² LTS provides support for the interstate-allocated loop costs of rate-of-return carriers (typically small rural carriers) that participate in the National Exchange Carrier Association (NECA) common line pool, and LSS (formerly DEM Weighting) is available to support the intrastate switching costs of carriers with 50,000 or fewer loops. 47 C.F.R. §§ 36.125(b), 54.301, 54.303. The Commission removed LTS and LSS, as well as high-cost loop support under Part 36, from the interstate access charge system in 1997, and they are now collected from all providers of interstate telecommunications services on an equitable and non-discriminatory basis. *See generally Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourth Order on Reconsideration, *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, Report and Order, 13 FCC Rcd 5318, 5343-45 paras. 40-41, 5352-54 paras. 56-58 (1998) (*Fourth Order on Reconsideration*).

²³ An indexed cap that limits the increase in support each year to the annual nationwide growth in loops restricts total high-cost loop support under Part 36 of the Commission's rules. *See* 47 C.F.R. Part 36, Subpart F; *First Report and Order*, 12 FCC Rcd at 8940 para. 302 ("indexed cap effectively limits the overall growth of the fund, while protecting individual carriers from experiencing extreme reductions in support").

²⁴ The Commission's rules limit the amount of corporate operations expenses that carriers may recover through high-cost loop support under Part 36. *See* 47 C.F.R. § 36.621; *First Report and Order*, 12 FCC Rcd at 8930-32 paras. 283-85.

²⁵ The Rural Task Force estimates that this particular proposal would increase the size of the high-cost loop support fund by approximately \$118.5 million in the first year, representing \$83.9 million in additional high-cost loop support and \$34.6 million in additional support for corporate operations expenses. For Rural Task Force estimates of the potential cost of other aspects of its Recommendation, *see* Letter from William R. Gillis, Rural Task Force, to Magalie Roman Salas, FCC, dated November 10, 2000.

²⁶ Section 54.305 of the Commission's rules currently limits universal service support for acquired exchanges to the per-line support received by the seller. 47 C.F.R. § 54.305.

eligible telecommunications carrier begins providing service in the study area, and subsequently adjusted for growth in lines and inflation rather than changes in cost. Under the Rural Task Force's proposal, "safety net additive" support, support for acquired exchanges and "safety valve" support, support for competitive eligible telecommunications carriers, and catastrophic event support²⁷ would be excluded from the cap on high-cost loop support. Total "safety valve" support would be limited to five percent of the overall cap.

8. The Rural Task Force also recommends the use of a new annual index known as the "rural growth factor" to adjust the cap on high-cost loop support, the corporate operations expense limitation, and fixed per-line support (in areas where competitive carriers are providing service) on a going-forward basis. The rural growth factor would be the sum of annual line growth for rural carriers and a general inflation factor (Gross Domestic Product-Chained Price Index).

9. The Rural Task Force suggests various other reforms. Among other things, it proposes that rural carriers be given a choice of three different options for disaggregating and targeting per-line universal service support, to be exercised within 270 days of the effective date of the proposed new rules. Furthermore, the Rural Task Force recommends adoption of a "no barriers to advanced services" policy, and suggests a number of principles for replacing any implicit subsidies in interstate access charges with explicit universal service support.²⁸

III. DISCUSSION

10. The Rural Task Force faced a challenging task. Congress recognized that, while competition could encourage investment in rural infrastructure and bring new, improved services to rural America, special measures were required to preserve and advance universal service. In several areas, Congress provided separate rules for markets served by small, rural telephone companies.²⁹ Accordingly, in implementing the 1996 Act, the Joint Board and the Commission have consistently recognized that rural carriers face diverse circumstances and that, in considering universal service support mechanisms, "one size does not fit all." The Rural Task Force thus was charged with the task of considering the needs of rural carriers.³⁰ The Rural Task Force recommends a flexible plan designed to balance competing goals, a

²⁷ Under the Rural Task Force Recommendation, fixed per-line support in areas where competitive carriers are providing service would be subject to adjustment by the incumbent carrier to recover costs associated with catastrophic events.

²⁸ We note that the Multi-Association Group (MAG) recently submitted to the Commission a comprehensive proposal for interstate access charge and universal service reform for rate-of-return carriers. *Petition for Rulemaking of the LEC Multi-Association Group*, RM 10011 (filed October 20, 2000) (*MAG Plan*); see *Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, CC Docket No. 98-77, Notice of Proposed Rulemaking, 13 FCC Rcd 14238 (1998). The MAG is comprised of the National Rural Telecom Association (NRTA), National Telephone Cooperative Association (NTCA), Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and United States Telecom Association (USTA).

²⁹ For example, the 1996 Act provides that state commissions may designate more than one eligible telecommunications carrier in an area served by a rural telephone company, but only after determining that such additional designation is in the public interest. See 47 U.S.C. § 214(e)(2). In addition, states may require a telecommunications carrier that seeks to provide service in a rural telephone company's service area to meet the eligible telecommunications carrier requirements of section 214(e)(1). See 47 U.S.C. §§ 214(e)(1), 253(f).

³⁰ See *Federal-State Joint Board on Universal Service Announces Rural Task Force Members*, CC Docket No. 96-45, Public Notice, FCC 98J-1 (Jt. Bd. rel. July 1, 1998); *Federal-State Joint Board on Universal Service*

plan that was endorsed by all the members of the Task Force. We find it significant that the Recommendation represents a consensus of competing views. We encourage the Commission to take advantage of this opportunity to craft a rural universal service plan that enjoys widespread support among diverse interests.

11. The Recommendation preserves a predictable level of universal service support that will provide stability to rural carriers – incumbents and competitors – for planning their investments over the next several years. By recommending a flexible system for disaggregating support to establish the portable per-line support amount available to all eligible telecommunications carriers, the Rural Task Force seeks to encourage competitors to enter high-cost areas. In addition, the Rural Task Force recommends certain modifications to the caps and limitations on high-cost loop support. These modifications are generally designed to provide carriers serving rural areas with increased incentives to invest in new infrastructure and technologies. Under the current mechanism, high-cost loop support for rural carriers is estimated to be \$835 million in 2001. The Rural Task Force estimates that, under its Recommendation, high-cost loop support for rural carriers will be \$961 million in 2001 and increase to \$1.29 billion in 2005.³¹ The Rural Task Force thus proposes to increase the rural high-cost loop fund by \$1.26 billion in the aggregate over the proposed five-year period, compared to the projected growth under the current mechanism.³²

12. In determining federal support for non-rural carriers, the Joint Board previously has recognized its obligation to provide sufficient support to ensure affordable and comparable rates. The Rural Task Force has noted that the 1996 Act sets standards to provide sufficient support while preventing “waste, windfall, and excessive expense for contributing carriers and their customers.”³³ While a significant number of commenters urge the Joint Board to recommend the Rural Task Force plan without modification,³⁴ other commenters, including some rural carriers, believe that the Rural Task

Announces the Creation of a Rural Task Force, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 15752 (Jt. Bd. 1997).

³¹ See Letter from William R. Gillis, Rural Task Force, to Magalie Roman Salas, FCC, dated November 10, 2000. The Rural Task Force support estimates include only high-cost loop support. In addition, based on USAC’s first quarter 2001 projections, rural carriers will receive \$386 million in LSS, \$390 million in LTS, and \$52 million in interstate access support. See USAC 1st Quarter 2001 Projections. These amounts also do not include implicit universal service support that may be included in rural carrier interstate access charges. The Rural Task Force recommends that LSS and LTS remain in place for the duration of its proposed plan and does not comment on the existing interstate access support program for price cap companies.

³² Joint Board staff estimate the \$1.26 billion increase as the difference between the Rural Task Force estimates and projected high-cost loop support based on the current rules. Staff derived current rule estimates by increasing the 2001 rural high-cost loop support estimate of \$835 million, reported in USAC’s first quarter 2001 projections, by 2.86 percent annual industry line growth factor, as reported in the NECA October 2000 filing. See NECA Universal Service Fund 2000 Submission of 1999 Study Results, filed October 1, 2000.

³³ See Appendix A at 8.

³⁴ See, e.g., CenturyTel Comments at 1-2 (urging the Joint Board to act quickly because “[r]eform is critically needed”); Evans Comments at 2 (“The Task Force Recommendation to the Joint Board is the first comprehensive proposal for implementation of the policies and principles of the 1996 Act on the subject of universal service support for high-cost [rural carriers] that includes input of and support by a broad base of interested stakeholders.”); GVNW Comments at 3 (“With the record now developed by a group representing the spectrum of those impacted by rural universal service public policy, it is now time to implement these recommendations for a five year-period.”). NECA Comments at 8-9 (“The RTF *Recommendation* should be adopted immediately by the

Force Recommendation would provide too little support.³⁵ Still other commenters, including several state commissions and carriers, believe it would provide too much support.³⁶ We believe that the nature of these comments is consistent with a recommendation that is a consensus proposal put forth by representatives of disparate interests.

13. The Rural Task Force has proceeded with caution by proposing modifications to the current embedded cost system for a five-year period, rather than attempting to modify the Commission's forward-looking cost mechanism that currently is used to determine non-rural support. We agree with the Rural Task Force that understanding the diversity among rural carriers and the differences between small rural carriers and large carriers is desirable in designing appropriate universal service support mechanisms. The Rural Task Force provided valuable data on these differences in their second White Paper, "The Rural Difference."³⁷ Specifically, the Rural Task Force demonstrated the inappropriateness of using input values designed for non-rural carriers to determine support for rural carriers.³⁸ We urge the Commission to use the period during which a Rural Task Force Recommendation is in place to develop a long-term universal service plan that better targets support to rural companies serving the highest cost areas. The Joint Board should remain involved in the process to develop improvements to the rural system. We also urge the Commission to evaluate the rural and non-rural support systems to ensure they work together efficiently, while at the same time recognizing the significant distinctions among rural carriers and between rural and non-rural carriers.³⁹ In sum, we conclude that the Rural Task Force Recommendation presents a good foundation for implementing a rural universal service plan.

14. We observe that the Recommendation proposes modifications to the Commission's rules that involve specific implementation details that the Commission may need to address. Below, we highlight some of these implementation issues.

Joint Board and the Commission, with due consideration of the potential longer-term effects of imposing artificial limits, such as continuation of any form of capping, on the size of the Rural carrier high cost fund.").

³⁵ See, e.g., Citizens Comments at 2-5 ("proposal to 'right size' the fund by ameliorating the impact of the past cap suggests the imposition of a new cap might necessitate . . . a new right sizing in order to achieve the intended result of spurring investment in rural America"); MTA Comments at 3 (arguing that loss of \$130 million due to caps "is money that could have been directly invested in our telecommunications infrastructure"); NTCA Comments at 7-10 (strongly believes that no caps on the universal service support funds should be retained and that caps are unlawful); USTA Comments at 6-8 (opposing any cap on the rural high-cost fund to ensure sufficiency as mandated by section 254(b)(5) of the Act).

³⁶ See, e.g., Charter Comments at 6-10 ("reform of rural universal service should be about reform, not about tweaking a subsidy structure that is outmoded and antithetical to competition"); New York Comments at 3-4 (no showing that total amount of support recommended would be only that amount necessary to enable rates to establish reasonably comparable rates); WorldCom Comments at 5-8 ("no evidence that rural LECs have been unable to maintain their quality of service or upgrade facilities at the support levels provided by the existing mechanisms"); Ad Hoc Reply Comments at 13-14 ("any increase or elimination of the indexed cap on the [high-cost loop] fund would only encourage a rural carrier to make inefficient investment decisions").

³⁷ See Rural Task Force, *White Paper 2: The Rural Difference* (January 2000) (*White Paper 2*), which is available on the Rural Task Force's web site at www.wutc.wa.gov/rtf/rtfpub.nsf?open.

³⁸ See, *id.*; see, e.g., GCI Comments at 2-3; People Comments at 2-3; WorldCom Comments at 2; Ad Hoc Reply Comments at 5-6; AT&T Reply Comments at 3-4.

³⁹ See *White Paper 2* at www.wutc.wa.gov/rtf/rtfpub.nsf?open.

A. Mergers and Acquisitions Cap & the “Safety Valve” Mechanism

15. Section 54.305 of the Commission’s rules provides that a carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of high-cost universal service support for which the acquired exchanges were eligible prior to their transfer.⁴⁰ The Rural Task Force recommends that the Commission retain section 54.305 of its rules, but establish an appropriate “safety valve” mechanism to enable rural carriers acquiring access lines eligible for high-cost loop support to recover additional support reflecting “meaningful investment” in acquired access lines.⁴¹ The Rural Task Force provides an illustration of such a mechanism in Appendix D of its Recommendation.⁴² In Appendix D, the Rural Task Force defines “meaningful investment” for purposes of qualifying a rural carrier for “safety valve” support as the difference between the “index year expense adjustment” calculated in accordance with section 36.631 of the Commission’s rules⁴³ and subsequent year expense adjustments.⁴⁴ The Rural Task Force’s example also proposes to limit the total “safety valve” support available to all eligible study areas to no more than five percent of the indexed high-cost loop fund cap for rural carriers.⁴⁵

16. We support the Rural Task Force’s proposal for providing additional support to rural carriers that acquire high-cost exchanges and make post-transaction investments to enhance the network infrastructure. We note, however, that the Task Force’s proposal does not address a number of important implementation issues. In order to ensure effective implementation of the “safety-valve” mechanism, we encourage the Commission to address several implementation issues. First, the Commission should consider the distribution of “safety valve” support if the total amount of eligible “safety valve” support exceeds the cap of five percent of the indexed high-cost loop support fund.⁴⁶ The Commission should also examine the definition of “meaningful investment.”⁴⁷ In addition, the Commission should address whether a carrier’s “safety valve” support should transfer to a different carrier as a result of a subsequent transfer of exchanges. Finally, the Commission should consider whether “safety valve” support is “frozen” when a competitive eligible telecommunications carrier enters the study area, just as other high-cost loop support would be frozen when a competitive eligible telecommunications carrier enters the incumbent’s service area, and whether such an approach would unduly dissuade investment.

⁴⁰ 47 C.F.R. § 54.305. High-cost support mechanisms currently include non-rural carrier forward-looking high-cost support, interim hold-harmless support for non-rural carriers, rural carrier high-cost loop support, local switching support, and Long Term Support (LTS). *See* 47 C.F.R. §§ 36.601-36.631, 54.301, 54.303, 54.309, 54.311.

⁴¹ *See* Appendix A at 29.

⁴² *See id.* at Appendix D.

⁴³ *See* 47 C.F.R. § 36.631.

⁴⁴ *See* Appendix A at Appendix D-1.

⁴⁵ *See id.*

⁴⁶ *See, e.g.,* USTA Comments at 9-10 (arguing that increased support resulting from a single transfer could exceed the five percent cap).

⁴⁷ For example, it may be more appropriate to define “meaningful investment” so that the “index year expense adjustment” is the year prior to the subsequent year “expense adjustment.” As currently proposed, the “index year expense adjustment” is the study area’s high-cost loop support “expense adjustment” calculated at the end of the acquiring company’s first year of operations.

B. Support in Competitive Study Areas

17. As discussed above, the Rural Task Force recommends that the Commission “freeze” per-line high-cost loop support directed to a rural study area if a competitive eligible telecommunications carrier has been designated and begins providing service in that study area.⁴⁸ Under the Rural Task Force’s proposal, both the incumbent LEC and the competitive eligible telecommunications carrier would receive fixed per-line support. The Rural Task Force also recommends that the Commission increase such fixed per-line support by the Rural Task Force’s proposed Rural Growth Factor.⁴⁹ Although we agree with the Rural Task Force that the Commission should “freeze” per-line high-cost loop support when a competitor begins providing services in a given study area, it is unclear how the high-cost loop fund cap would account for fixed rural carrier support. The Commission should seek additional input from commenters, including the Rural Task Force, on the operation of the high-cost loop fund cap on fixed rural carrier support.

18. The Rural Task Force also recommends that the Commission permit incumbent LECs receiving “frozen” per-line high-cost to adjust frozen per-line support to recover costs associated with catastrophic events affecting the carrier’s ability to provide supported services.⁵⁰ The Commission should seek further input on the impact of “catastrophic” support provided by other sources such as insurance, Rural Utilities Service loans, and federal or state emergency management relief.⁵¹

C. The “Safety Net Additive”

19. In years in which the Rural Task Force’s new indexed cap on the high-cost loop support fund is triggered and growth in telecommunications plant in service (TPIS) per line in a rural study area is at least 14 percent greater than the study area’s TPIS per line in the prior year, the Rural Task Force proposes a “safety net additive,” which would enable a carrier to recover 50 percent of the difference between capped and uncapped support.⁵² Any study area that qualifies for the safety net additive support also would qualify for safety net additive support in each of the four succeeding years, regardless of whether the study area meets the 14 percent criterion in those years.⁵³ Safety net additive support would be in addition to capped high-cost loop support, and would not be subject to the Rural Task Force’s new indexed cap on such support.⁵⁴ We agree with the Rural Task Force that additional support in the form of a safety net additive should be available to rural carriers that make significant investment in rural infrastructure, but urge the Commission to seek further comment on whether the safety net additive mechanism enables a carrier to recover more than 100 percent reimbursement on incremental loop investment.⁵⁵

⁴⁸ See Appendix A at 26.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ See Sprint Comments at 3 (“fund should not become substitute for carriers’ insurance policies”).

⁵² See Appendix A at 27.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See, e.g., Bristol Comments at 3; TDS TelecomComments at 8.

D. Interstate Access Universal Service Support for Non-Price Cap Carriers

20. The Rural Task Force recommends that the Commission replace implicit universal service support included in rural carrier interstate access charges with an uncapped “High Cost Fund III.”⁵⁶ The Rural Task Force also articulates several principles that the Commission should follow in implementing that task.⁵⁷ We concur with the Rural Task Force that the Commission should consider creating an explicit universal service support mechanism to replace support that may be implicit within interstate access charges collected by rural carriers.⁵⁸ We acknowledge, however, that the access charge issues raised by the Rural Task Force and the MAG are interstate in nature and, therefore, are properly before the Commission.⁵⁹ However, the MAG plan raises issues beyond interstate access reform, and proposes universal service policy and procedural changes, including rate comparability under section 254(b)(3) and the overall size of the universal service mechanisms. Section 254(b) and 254(c) of the 1996 Act both contemplate that the Joint Board remain involved in matters related to universal service.⁶⁰ We therefore encourage the Commission to ensure the Joint Board remains actively involved in review of those aspects of the MAG plan that relate to universal service. A significant number of Joint Board members urge that this involvement include a referral to the Joint Board of the universal service issues raised by the MAG plan.

E. Future Steps

21. As discussed above, the Rural Task Force urges that its recommendation be implemented immediately and remain in place over a five-year period.⁶¹ In addition to the Commission’s ongoing consultation with the Joint Board during this period, we urge the Commission to refer to the Joint Board, no later than January 1, 2002, a proceeding to consider implementation of an appropriate high-cost mechanism for rural carriers after the expiration of the Rural Task Force’s plan. We note that the Commission and the Joint Board are already committed to review the operation of the high-cost support mechanism for non-rural carriers on or before January 1, 2003.⁶² This proposed timing would permit the Joint Board and the Commission to consider the appropriate rural mechanism to succeed the plan that the Commission adopts pursuant to the Rural Task Force’s recommendation and devote sufficient time to the task prior to the termination of that plan. We also recommend eventual comprehensive review of the high-cost support mechanisms for rural and non-rural carriers as a whole to ensure that both mechanisms function efficiently and in a coordinated fashion. We urge the Commission to use the transitional period during which a modified embedded cost mechanism is in place to develop a long-term universal service

⁵⁶ See Appendix A at 30-32.

⁵⁷ See *id.*

⁵⁸ See AT&T Comments at 5-6; CenturyTel Comments at 2; NTCA Comments at 18; Roseville Comments at 4; TDS Telecom Comments at 6-7.

⁵⁹ See NTCA Comments at 19; Roseville Comments at 4; TDS Telecom Comments at 6-7; USTA Comments at 11.

⁶⁰ See 47 U.S.C. §§ 254(b), (c).

⁶¹ See *supra* discussion at para. 5.

⁶² *Federal-State Joint Board on Universal Service, Access Charge Reform*, CC Docket Nos. 96-45, 96-262, Seventh Report & Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45, Fourth Report & Order in CC Docket No. 96-262, and Further Notice of Proposed Rulemaking, 14 FCC Rcd 8077, 8123 para. 94 (1999).

plan that better targets support to rural companies serving the highest cost areas, while at the same time recognizing the significant distinctions among rural carriers and between rural and non-rural carriers.

IV. RECOMMENDING CLAUSE

22. For the reasons discussed herein, the Federal-State Joint Board on Universal Service, pursuant to section 254(a)(1) and section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 254(a)(1), 410(c), recommends that the Commission adopt the Rural Task Force Recommendation as a foundation for implementing a rural universal service plan.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

APPENDIX A

**RURAL TASK FORCE
RECOMMENDATION TO
THE FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE**

**APPENDIX B
PARTIES FILING INITIAL COMMENTS**

<u>Commenter</u>	<u>Abbreviation</u>
Alaska, Regulatory Commission	RCA
Alaska, State of Rural Task Force	Alaska
AT&T Corp.	AT&T
Bristol Bay Telephone Cooperative, Inc.	Bristol
CenturyTel Service Group, Inc.	CenturyTel
Charter Communications, Inc.	Charter
Chugwater Telephone Company	Chugwater
Citizens Communications Company	Citizens
Direct Communications Rockland Telephone Co.	Rockland
Evans Telephone Company	
Happy Valley Telephone Co.	
Hornitos Telephone Co.	
Humboldt Telephone Co.	
Kerman Telephone Co.	
Oregon-Idaho Utilities, Inc.	
Pine Tree Telephone & Telegraph Co.	
Pinnacles Telephone Co.	
The Ponderosa Telephone Co.	
The Siskiyou Telephone Co.	
The Volcano Telephone Co.	
War Telephone Co.	
Winterhaven Telephone Co.	Evans
Fremont Telephone Company	Fremont
General Communication, Inc.	GCI
GVNW Consulting, Inc.	GVNW
Iowa Telecommunications Services, Inc.	Iowa Telecom
Ketchikan, City of	
d.b.a. Ketchikan Public Utilities	Ketchikan

Maine Public Utilities Commission	
Vermont Department of Public Service	
Vermont Public Service Board	Maine
Manti Telephone Company	Manti
Mike Stagg	Mike Stagg
Montana Telecommunications Association	MTA
Mt. Angel Telephone Company	Angel
National Association of State Utility Consumer Advocates	NASUCA
National Exchange Carrier Association, Inc.	NECA
National Telephone Cooperative Association	NTCA
Nebraska Rural Independent Companies	Nebraska
New York State Dept. of Public Service	
Connecticut Dept. of Public Utility Control	
Illinois Commerce Commission	
Maryland Public Service Commission	New York
North-State Telephone company	North-State
Oregon Exchange Carrier Association	OECA
Oregon Telecommunications Association	OTA
Oregon Telephone Corporation	OTC
People, State of California	
California Public Utilities Commission	People
Pioneer Telephone Cooperative	PTC
Qwest Corporation	Qwest
Roseville Telephone Company	Roseville
Rural Independent Competitive Alliance	RICA
Rural Utilities Service	RUS
Sprint Corporation	Sprint
South Dakota Independent Telephone Coalition, Inc.	SDITC
TDS Telecommunications Corporation	TDS Telecom
Tularosa Basin Telephone Company, Inc.	Tularosa
United States Telecom Association	
Organization for the Promotion & Advancement Of Small Telecommunications Companies	
National Rural Telecom Association	USTA
Valor Telecommunications Enterprises, LLC	Valor
Verizon	Verizon
Virgin Islands Telephone Corporation	Vitelco
Western Alliance	Western
Washington Independent Telephone Association	WITA
WorldCom, Inc.	WorldCom
Wyoming Public Service Commission	WPSC
YCOM Networks	YCOM

**APPENDIX C
PARTIES FILING REPLY COMMENTS**

<u>Commenter</u>	<u>Abbreviation</u>
Ad Hoc Telecommunications User Committee	Ad Hoc
Alaska Rural Coalition	Alaska Rural Coalition
Alaska, State of	Alaska or the State
AT&T Corp.	AT&T
Competitive Universal Service Coalition	CUSC
Florida Public Service Commission	Florida PSC
Gold West Telecommunications Coop., Inc and Vivian Telephone Company	Gold West and Vivian
GVNW Consulting, Inc.	GVNW
Hanson County Telephone Company	Hanson
Hawaii, State of	Hawaii
Interstate Telecommunications Cooperative, Inc.	Interstate
Kennebec Telephone Company	Kennebec
Maine, State of	Maine
McCook Cooperative Telephone Company	McKook
Nebraska Rural Independent Companies	Nebraska (Companies)
National Telephone Cooperative Association	NTCA
Sanborn Telephone Cooperative	Sanborn
Sancom, Incorporated	Sancom
SBC Communications, Inc.	SBC
Sioux Valley Telephone Company	Sioux
Small Rural LECs	
Evans Telephone Company	
Happy Valley Telephone Company	
Hornitos Telephone Company	
Humboldt Telephone Company	
Kerman Telephone Company	
Oregon-Idaho Utilities, Inc.	
Pine Tree Telephone & Telegraph Company	
Pinnacles Telephone Company	
The Ponderosa Telephone Company	
The Siskiyou Telephone Company	
The Volcano Telephone Company	
War Telephone Company	
Winterhaven Telephone Company	Small Rural LECs
Sprint Corporation	Sprint
Stockholm Strandburg Telephone Company	Stockholm-Strandburg
Sully Buttes Telephone Cooperative, Inc.	Sully Buttes
United States Telecom Association	
Organization for the Promotion & Advancement of Small Telecommunications Companies	
National Rural Telecom Association	Associations

United States Virgin Islands, Public Service Commission	US Virgin Islands
Valley Telecommunications Cooperative Assn., Inc.	Valley
Virgin Islands Telephone Corporation	Virgin Islands
Warinner, Gesinger & Associates	WGA
West Virginia Public Service Commission	West Virginia
Western Telephone Company	Western
Wyoming Public Service Commission	WPSC

SEPARATE STATEMENT OF JOINT BOARD CHAIRMAN SUSAN NESS

Re: Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45

A core principle of the Telecommunications Act of 1996 is that all Americans should have access to reasonably comparable services at reasonably comparable rates. When the Joint Board and the FCC undertook a thorough review of the high-cost universal service mechanism following passage of the 1996 Act, we recognized the unique circumstances of rural carriers and did not adopt a “one-size-fits-all” solution. Rather, we worked with the rural carriers and their associations to convene a Rural Task Force that brought together a diverse range of companies, consumer advocates, and government representatives to examine the cost structures and competitive circumstances of rural carriers.

After two years of intensive deliberations, the Rural Task Force unanimously recommended a high-cost mechanism for rural carriers that recognizes not only the significant differences *between* rural and non-rural carriers, but also the vastly different cost structures *among* rural carriers. As is the case with any consensus proposal, the framework may not be exactly what any one entity would want. Nevertheless, the Task Force’s framework represents a good compromise – a reasonable, but delicate balance -- among disparate interests that provides the certainty and stability essential for investment in rural America.

I commend the Rural Task Force for their unwavering efforts to develop a predictable and sufficient universal service mechanism for rural consumers. We owe them a debt of gratitude for their hard work. I especially want to thank the chair of the Task Force, Commissioner Bill Gillis of the Washington Utilities and Transportation Commission. He has worked with uncommon fortitude and patience to forge a consensus among warring factions.

For the past ten weeks, the Joint Board has had an opportunity to review the Report and to provide additional guidance to the FCC on the conclusions reached, including the targeting, magnitude, and duration of the support. Some commissioners would have preferred a vastly different regime or a more simplified one, some a significantly shorter timeframe, some a few points of fine-tuning to more precisely direct the funds toward the higher cost areas, while others would have expanded the scope of the review to include issues beyond the Rural Task Force report. In the end, in the interest of time, and with deep appreciation of the hard work of the Rural Task Force, the Joint Board agreed simply to forward the Report to the FCC without recommendations.

Now that the Rural Task Force has completed its work and the Joint Board has sent that recommendation to the Commission, I urge the Commission to move forward as rapidly as possible to bring this process to a successful conclusion. It is essential that we provide certainty to rural carriers by putting in place a high-cost mechanism that makes both economic sense and common sense. The stability offered by such a system will allow rural carriers to plan for the future and undertake necessary investment that benefits rural communities.

In this decision, a number of Joint Board members also request that the Commission refer to the Joint Board the interstate universal service aspects of an access charge reform plan

recently submitted by rural carrier associations. I would prefer to proceed concurrently with universal service and access charge reform. The two go hand in glove. Although I agree that the Joint Board should be actively involved in issues that affect high-cost universal service mechanisms, I fear that a formal referral to the Joint Board could delay the process of implementing these reforms beyond the July 1, 2001 target date. Thus, any referral of these issues to the Joint Board should include concrete deadlines that would allow the Commission the ability to adopt appropriate access charge reform on the same timetable that it implements reform of the high-cost mechanism for rural carriers.

I look forward to continuing the dialogue with the Joint Board members as partners in this proceeding as we continue our efforts to fulfill the statutory requirement to preserve and advance universal service for the benefit of all Americans.

SEPARATE STATEMENT OF COMMISSIONER HAROLD FURCHTGOTT-ROTH

Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (rel. December 22, 2000)

I am pleased to endorse this Joint Board referral of the Rural Task Force report to the Federal Communications Commission. The inescapable meaning of the language of Section 254 of the Communications Act is that its primary purpose is the preservation and advancement of telecommunications services in rural America. This purpose has not been addressed by the Commission since the passage of the Telecommunications Act nearly five years ago, although the Commission has seen fit to spend billions of dollars of consumer fees for other purposes divined under Section 254.

Chairman William Gillis led the Rural Task Force in a mission designed to fail: from disparate and conflicting parties, form a consensus view on universal service for small rural telephone companies. Chairman Gillis believed the Rural Task Force could succeed; practically all outside observers believed no consensus could be reached. He was proved correct; others were proved wrong. The members of Rural Task Force have proven to have a greater sense of the public interest in reaching an agreement than others believed possible.

The Rural Task Force was and is the creation of the Joint Board on Universal Service. Where we sought their advice and when we waited two years to receive it, we must give it some substantial degree of respect. I cannot pretend to agree with every word in the recommendations; there is much that I would have written differently. Moreover, many parts of the recommendations lack detail. The FCC will have much work to fill in the details, but surely the FCC will have the Joint Board and the Rural Task Force to thank for an auspicious starting point.

Statement of Commissioner Gloria Tristani

Re: Federal State Joint Board on Universal Service Recommend Decision, Docket CC 96-45

I am pleased to support the recommendation of the Rural Task Force on the means to reform rural high-cost support for the next five years. The recommendation of the Rural Task Force reflects a tremendous effort to reform rural high-cost support in a reasonable manner that addresses multiple competing interests. I note in particular that concerns have been expressed about the length of time that the plan remains in place. One of the principal goals the Rural Task Force, however, was creating stability for investment in rural areas. I agree with the Rural Task Force that implementation for a period of five years is an important aspect of the recommendation and emphasize that the five-year period should not be shortened.

As noted in the recommended decision, several members of the Joint Board support recommending that the Commission refer the universal service aspects of the proposal for interstate access charge and universal service reform filed with the Commission by the Multi-Association Group (MAG) to the Joint Board. I agree that the MAG Plan raises significant questions of universal service policy, and that the input of the members of the Joint Board on this plan is invaluable. Nonetheless, I cannot support recommending a formal referral of the universal service aspects of the plan to the Joint Board. In light of the time limitations and resource constraints that the Commission faces, it is not practical. In particular, the Commission has a limited amount of time to implement the RTF proposal and consider whether the MAG plan is an appropriate access and universal service reform package. If acceptable, both matters before the Commission anticipate a July 1, 2001, implementation date.

Should the Commission decide not to refer the MAG Plan to the Joint Board, the lack of a formal referral should not prevent the Joint Board from participation in the process. I strongly encourage the Commission to ensure that the Joint Board remains actively involved in the Commission's consideration of the universal service aspects of the MAG Plan.

**Concurring Statement
of
Commissioner Laska Schoenfelder
with Recommendation for Further Study
and Concurrence with
Commissioner Rowe's Statement**

Docket CC 96-45

The Rural Task Force Recommendation (Recommendation) is remarkable when one considers multiple industry interests and regulators gathered to debate issues and policy with service requirements, subsidies, high and low cost states, rural protection and competition issues in play. The Recommendation represents substantial progress toward melding disparate interests inherent in the crafting of national telecommunications policy. The Recommendation of the Rural Task Force should be adopted in its entirety, and it should remain in effect for a minimum of five years.

Even so, with the future benefit of hindsight and further study, there will be acknowledged mistakes and the need for policy change. There are current unknowns that beg for data collection and study. My particular concern is the Recommendation's intent to provide universal service funding support for per customer multiple lines that may be conjunctively provided by ILEC, CLEC, and wireless companies. It's troubling that we may be providing the framework to massively inflate high cost support programs, potentially tripling them, without advancing universal service. I fully understand the need to resolve administrative problems before we can fully address this issue.

We know there are customers who now have multiple wireline and wireless options offered by eligible telecommunications carriers. I expect the scale of this issue to grow. There is an obvious need to intensify our examination of this issue in upcoming reviews. This issue should now be marked for tracking and measurement. We need to focus on the possibility of requiring multi-line customers to designate one line for receipt of universal service support. Commissioner Rowe is also filing additional comments addressing universal service issues which should be examined in the near future, and I support his statement.

The Multi-Association Group Plan (MAG Plan) which has been filed before the FCC is a comprehensive rural carrier reform plan which includes specific universal service recommendations. Those elements of the MAG Plan related to universal service should formally be referred to the Joint Board.

**Statement of
Public Counsel Martha Hogerty
Concurring in part and Dissenting in part**

I appreciate the tremendous effort of Commissioner Bill Gillis and the other members of the Rural Task Force in investigating and developing a joint recommendation regarding rural universal service issues. Their thorough and tireless research has significantly advanced our understanding of rural telecommunications issues.

I recognize that the Rural Task Force Recommendation is a compromise presented as an integrated package by a broad range of interested parties. The Joint Board Members examined all facets of the Recommendation and during discussions addressed questions about the wisdom of various components. Ultimately I agree that the proposal should be adopted for a five year period. I support the Recommendation primarily because the plan provides stability and predictability for a period of five years. This provides carriers with a reasonable planning horizon and provides investment incentives for rural carriers.

But I believe that the work initiated by the Rural Task Force is incomplete. The Rural Task Force Recommendation puts forth mechanisms that ensure that in the aggregate rural companies can provide the supported services. However, it falls short of ensuring that the support provided on a company basis is properly targeted. I believe that first obligation of the members of the Joint Board is accountability to the consumers that pay for the universal service fund. An inflated fund size or questionable allocation of funding threatens universal service.

This Joint Board has the responsibility to the public to properly target the universal fund. USAC collected \$4 billion for the universal service fund in the year 2000. The proposed USF assessment on carriers for the first quarter of 2001 is 6.68%. The RTF will add another 1.6 billion to the fund. My fellow Joint Board members and I are certainly aware that customers continue to object to increasing federal and state surcharges on their bills. We owe it to them to carefully monitor the fund. My fear is that the universal fund may not be sustainable.

Looming before us is the MAG plan. This proposal has significant universal service implications. First, it could raise customer rates by increasing and deaveraging the SLC, and this has implications for rate comparability under Section 254(b)(3) of the Act and also for telephone penetration. Second, it will increase the size of the Universal Service Fund and the rate charged against the interstate revenues of contributing carriers. Section 254(b) and 254(c) both contemplate that the Joint Board makes recommendations in matters related to universal service. Accordingly, the Commission should refer to this Joint Board the universal service issues raised by the MAG plan, just as it should refer any other proposed federal action that would increase the price of universal service or increase the size of the Universal Service Fund. I strongly oppose any decision by the FCC to proceed with consideration of the MAG without a Joint Board recommendation and I am compelled dissent to the portion of the Joint Board Recommendation insofar as it fails to recommend referral of the MAG plan to the Joint Board.

Although I am able to accept the result for a limited period of time, I am disappointed that a more concentrated effort to target support was not achieved. I believe we can do better. It is my

hope that the referral that commences in 2002 will result in a mechanism that provides sufficient support, to ensure just reasonable and affordable service to high cost areas, no more and no less. Support should be targeted narrowly to those specific geographic areas that have a demonstrated need for the support. The need would be demonstrated where unacceptably high costs prevent the provision of affordable universal service absent support.

During the term of this plan, work must begin immediately to target support where it is needed. There was testimony offered by Commissioner Dunleavy of New York that some rural carriers receive support where the necessity is not clearly demonstrated. There was also testimony presented by Commissioner Welch of Maine that some areas of the country may not have sufficient support because of extraordinary high costs, not only for loop, but also switching, transport and general service facilities. Commissioner Rowe has expressed his concern that unserved areas exist that are in need of support. These concerns must be addressed and solved. I would support Commissioner's Rowe's recommendation to open a docket to investigate areas where no service is available. We must develop funding concepts that involve cost analysis and support that is more closely grounded to the existing network and real costs of providing universal service.

Although I agree with the Rural Task Force Recommendation that additional support in the form of a "safety net additive" should be available to rural carriers that make significant investment in rural infrastructure. I am concerned that the safety net support, combined with high cost loop support, switching support and interstate support, could in some cases produce more than 100% reimbursement on incremental loop investment. I strongly support the Joint Board's Recommendation to further investigate this problem. I believe that the Commission should craft rules to ensure that safety net benefits do not produce more than full recovery of the revenue requirement caused by additional carrier investment under any circumstances.

The Rural Task Force's proposal for re-basing the high-cost loop support fund includes a \$14.6 million increase to reflect the removal of the Commission's corporate operations expense limitation. While I agree with the Rural Task Force's concern that a number of rural carriers impacted by the corporate operations expense limitation, I am most concerned about its impact on smaller carriers. The corporate operations expense limitation was adopted, in part, to prevent carriers from recovering from the high-cost loop support mechanism excessive expenditures unrelated to the provision of supported services. For larger companies, I believe this is a reasonable restriction. I believe the lifting of the corporate expense would have been better targeted to very small companies.

I urge the Commission to establish an annual certification requirement for state commissions that receive federal universal service support for rural carriers serving within their territories. Such a requirement will ensure that receipt of the federal support is appropriate and being used in a manner consistent with section 254. The Commission should apply this certification requirement to all forms of federal universal service support received by rural carriers, including "safety net additive," "safety valve," and "catastrophic" support.

I share Commissioner Schoenfelder's concern that providing universal service support for multiple lines to a single customer may substantially increase the size of high cost support

programs without significantly advancing universal service. We recognize that there are formidable administrative problems that must be solved before this problem can be addressed fully, but nonetheless it must be addressed. Customers in some areas today have options for second or third lines that include not only wireline service but also one or more wireless telephones offered by eligible telecommunications carriers. I believe we must look further into this issue in the upcoming reviews, and will be particularly interested in examining the feasibility of requiring multi-line customers to designate a single line to receive universal service support.

In conclusion, I accept the Rural Task Force Recommendation because it will address the needs of rural consumers, however, I recognize that we will delay implementation of further refinements to target the fund for the period this plan is in effect. My hope is that the 2002 review process leads to meaningful results. While I accept the Rural Task Force Recommendation, I strongly dissent to the extent the Recommendation fails to refer the MAG plan to the Joint Board.

STATEMENT OF COMMISSIONER BOB ROWE**Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45**

The Rural Task Force recommendation should be promptly implemented, fully implemented, and implemented for the full five-year period recommended. In addition, within the next six months a proceeding should be commenced concerning the very highest cost unserved and underserved areas, as more fully described below.

Perhaps nowhere in America is telecommunications more valuable than in rural areas. Modern telecommunications can help overcome distance and dispersion, and (as an intermediate good) allow rural citizens to maximize the advantages provided by other rural attributes. Perhaps nowhere are the challenges to deployment more daunting than in rural America. This was persuasively demonstrated in the Rural Task Force's second report, The Rural Difference.

Many telecom providers, especially small providers, do a great job providing rural citizens high quality service and, increasingly, access to more advanced services. Despite the acute "rural difference" exciting things are happening in rural America. Small carriers are investing in fiber backbone, installing ATM switching, and are beginning to deploy high-speed loop. Competition is also beginning to grow in some rural areas, provided by regional and national companies, and (too-often unnoticed) by small local competitors or competitive affiliates of rural companies. All of this is to the great credit of the providers and to the communities they serve. It is also a confirmation of Congress' wisdom in embracing both competition and universal service.¹ Public policy should support and not impede private innovation and investment.

A. The Rural Task Force Presented a Balanced Recommendation That Should be Adopted.

Our challenge, squarely addressed by the Rural Task Force, is first to "do no harm," second to effectuate Congress' specific universal service objectives in Section 254, and third to do so in a way consistent with Congress' companion emphasis on competition. The Rural Task Force has done an admirable job in devising a universal service plan for rural carriers that preserves existing universal service support levels while facilitating competition in rural areas. The Rural Task Force faced a monumental challenge. Congress recognized that competition might encourage investment in infrastructure and bring new and improved services to rural America. Congress also found that special measures beyond competition are required to preserve and advance universal service in rural areas. The Rural Task Force's recommendation is a fairly comprehensive plan designed to balance the sometimes-competing goals of competition and universal service.

The recommendation is endorsed by all members of the Rural Task Force and represents a consensus of their sometimes-divergent positions. As such, the plan deserves due deference. I support its prompt and complete adoption.

¹ See generally, the record in the Senate Commerce Committee hearing on rural digital divide issues, March 28, 2000, and the opening statement of Chairman Burns.

B. Unserved and Underserved Areas Should be Promptly Addressed.

Under the Rural Task Force recommendation support to some extremely high-cost rural areas may not be sufficient to achieve rates and service comparable to those in urban areas, as is required by Section 254 of the Act. Some areas of the country, primarily because of geography, have extraordinarily high costs for plant items not supported by the current or proposed support plans. These plans generally support high loop costs for all companies and switching costs for small companies. However, costs not covered may include, depending upon the circumstances, transport, general support facilities, and some switching costs.² In addition, the end result suggests that some very high cost companies may be left with intrastate revenue requirements net of federal support in excess of \$50 per line per month.³ We must develop a mechanism that assures "sufficient" support for all areas.⁴ Otherwise, the sufficiency requirement of Section 254 of the Act will not be met.

I am particularly concerned that some consumers in some rural areas do not have any telephone service available.⁵ Where consumers have no opportunity to purchase telephone service there exists a fundamental universal service concern.

² The amount of switching cost covered is based on the size of the company (the smaller the company, the greater the support) rather than the per line switching cost. Therefore, a slightly larger company with very high switching cost might not receive adequate support.

³ Based upon data filed by the National Exchange Carriers Association, it is possible to calculate an "all facilities" embedded cost-based revenue requirement for each rural carrier. Based upon this analysis, a "best fit" line can be calculated to the cost and support data. The results show that, on average, only 44 cents of every dollar of unseparated cost are matched by the two federal programs for intrastate services: loop support and local switching support. Thus if a company has an overall intrastate separations factor of 75%, the existing system supports 44 cents of the 75 cents of every dollar that is separated to intrastate. This leaves approximately 31 cents per dollar of cost to recover from intrastate services. Because some companies have total embedded costs in excess of \$200 per line per month, this can leave companies with revenue requirements from intrastate services of \$50 per line per month or more. Detailed examples cannot be offered here because the NECA cost data are under a protective order in this docket.

⁴ See Maine/Vermont Comments and En Banc Comments of Maine Public Utility Chairman Thomas Welch.

⁵ I am aware that unserved areas exist in numerous states. For example only, some of the unserved areas in Montana are:

*Qwest facilities extend to the General Mercantile store in Polebridge, Montana. Residents of the North Fork area north of Polebridge who have no access to telecommunications.

*The area south of Glasgow located on the "High Line" of eastern Montana is a rugged and sparsely populated area often termed the "bad lands." Ranches are up to 45 miles south of the nearest central office in Glasgow, Montana. It is not economically feasible for a rural telephone company to extend transport facilities to serve the area. Cellular service provides limited telecommunications options due to the terrain and location.

*Sixteen customers living approximately twenty miles southwest of Utica in central Montana have no access to telecommunications. The estimated cost to connect these customers to the network is \$400,000 (\$250,000 for fiber facilities and \$150,000 for backbone). The terrain is rugged with sheer rock cliffs on the side of the road that is not much more than a few feet of dirt piled on top of rock. Burying the fiber to connect these

Because of the pressing concern about unserved areas, I recommend that within the next six months the Commission commence a proceeding and refer to this Joint Board the question of whether additional, specific measures are needed for areas where no telephone service is currently available. Two members of the Rural Task Force suggested this approach.⁶ Initiating a proceeding does not indicate any predetermination about the scope of the problem, the range of technical and policy solutions, or the appropriate balance of federal, state, and private strategies. This proceeding should also examine areas that are seriously underserved.⁷ I hope the results of this new proceeding if adopted can be implemented as soon as possible.⁸

C. The Next Review of Rural Support Should Commence in Time to Allow Thoughtful Development and Consideration of Issues.

customers to the public switched network would require rock sawing for nearly 20 miles. The distance and the mountainous terrain limit cellular options.

*Six customers living in the Olaf area, twenty-five miles north of Two Dot in central Montana have no telecommunications service. An engineering study estimates it would cost \$200,000 in predominately transport investment to provide service to these six customers. The rocky terrain and mountainous area are barriers to service access.

*Seventy-four persons filed a petition with the Montana PSC in 1998 seeking telephone service in the Little Wolf Creek area north of Helena. Again the cost of tying this area into the public switched network is prohibitive.

*A destination ranch for critically ill children is located 23 miles west of Whitefish, Montana (northwest Montana) near the Hope Ranch, a private adolescent facility. Neither the ranch nor the approximately 24 families who live in the area, have access to telecommunications. Cellular service is poor or not available due to the rugged terrain and mountains. Engineering studies have determined that the cost to extend trunking facilities needed to connect this area to the public switched network is prohibitive.

*Other examples of unserved territory can be found in Maine. In most all cases these areas consist of relatively compact settlements that are far from existing service facilities. In some cases these areas are islands or are settlements not connected to the rest of Maine by public roads. Therefore, in these areas, loop costs are likely to be low but switching costs per customer and trunking costs are likely to be extremely high.

While commenters identify the problem, these specific examples are outside the record, and are only offered to demonstrate the problem's significance. This does not suggest the appropriate policy, technology, or balance of federal, state and private efforts to address such problems. For another time are stories about successful and unsuccessful efforts to extend service, and - where successful - about the dramatic effect on citizens receiving good telecommunications access for the first time.

⁶ See Reply Comments of Maine Public Advocate Stephen Ward and West Virginia Consumer Advocate Billy Jack Gregg.

⁷ On its own motion the Commission has undertaken proceedings concerning access to telecommunications on tribal lands and to promote deployment and subscribership in underserved tribal areas. State commissions have been active in implementation.

⁸ The Commission should be careful not to diminish the flow of support and not take away any new support provided under the Rural Task Force recommendations when it implements any needed additional support for unserved areas.

A full five year implementation period will allow providers sufficient regulatory predictability to make critical investments. It will also allow thoughtful consideration of any universal service issues before expiration of the five year period. The next review will also be an opportunity to more fully address several issues raised by commenters in this proceeding that could not be addressed while acting promptly on the Rural Task Force Recommendation. Over the next five years markets and technology will surely change. Therefore, Joint Board and the Commission should commence its initial review of the high cost mechanism for rural carriers by January 2002.

As the Rural Task Force's findings demonstrate, there are substantial differences between the average characteristics of rural carriers and those of nonrural carriers. The Rural Task Force was charged solely with considering the needs of rural carriers and therefore did not consider the service needs of the large number of rural customers served by nonrural carriers. When the Rural Task Force recommendation is put in place the support rules for rural carriers will remain significantly different from those that apply to nonrural carriers. Furthermore, the costs for nonrural carriers' support will be measured primarily on an embedded cost basis, but nonrural costs will be measured on a forward looking basis. The difference in the way costs are measured and the method used to determine needed support will produce significantly different support amounts for comparable rural areas; those served by a rural carrier and others served by a nonrural carrier.⁹ Several commenters described potential problems at the borders between the two programs.

During the next review the Joint Board should coordinate its examination of the rural and nonrural mechanisms, identify areas where the programs could benefit from harmonization,¹⁰ and develop strategies to do so. This does not suggest that the non-rural mechanism should be adopted for rural companies. In fact some might suggest that a mechanism closer to that used for rural companies might be desirable for rural areas served by large companies if sufficient support is going to be provided for all rural areas.

Some commenters suggested that existing support mechanisms might provide some carriers support where the need for that support has not been demonstrated.¹¹ From reviewing

⁹ Commenters suggested that two vastly different support mechanisms may create a risk of the kind of incentives described in the Maine/Vermont comments and in the comments of Maine Chairman Thomas Welch discussed supra.

¹⁰ "Harmonization" does not mean uniformity, particularly due to the "rural differences" identified by the Rural Task Force, and also due to the great limitations in existing economic cost models when applied to rural areas, as identified in Rural Task Force Report 4, A Review of the FCC's Non-Rural Universal Service Fund Method and the Synthesis Model for Rural Telephone Companies. Harmonization means identifying and addressing issues arising on the seams or borders between the two programs, such as the possibly increased incentive to sell exchanges if the seller is eligible for less support, ensuring purchasers are able to invest in those exchanges, or the cost and complexity of maintaining different costing methodologies.

¹¹ See Maine/Vermont and New York Comments and Comments of Commissioner Thomas Dunleavy of the New York Public Service Commission and Thomas Welch of the Maine Public Utility Commission made to the Joint Board at the San Diego NARUC meeting.

rough cost data, this would appear to be of concern in at most a small number of cases. Interest expressed by some parties in greater targeting to the highest cost areas could be considered in this future proceeding

At least one commenter was concerned that the existing support mechanism may have unintended effects on carrier incentives to overbuild an area where the incumbent has significantly under-invested.¹² As pointed out at the en banc hearing, rural carriers sometimes considering overbuilding a nearby area served by a different incumbent. According to the witness the decision to overbuild is affected, however, by the current support mechanism, which treats overbuilders as CLECs, and thus limits support based upon the embedded costs of the incumbent. If the incumbent, however, has not invested in its system, this support may be small.¹³ The result may be an incentive towards a buy-then-rebuild strategy as opposed to a simple overbuilding strategy. If so, the support mechanism may have the unintended effect of increasing the sale price of poor quality plant and thus the overall cost of providing service. The Joint Board should address this question when it examines the design of the rural and nonrural systems.

Long-term sustainability of support mechanisms will be a critical issue as well. We need to consider mechanisms consistent with changing markets.

For these reasons the Joint Board and the Commission should begin review of high-cost support mechanisms for rural carriers by January 2002. This timing will allow orderly examination of both rural and non-rural support mechanisms at the same time. This will facilitate the evaluation, for all rural areas, of whether rates and services are comparable to those in urban areas.

D. The Commission Should Adopt the “No Barriers” to Advanced Services Recommendation.

Finally, I strongly endorse the Rural Task Force’s balanced and thoughtful approach to advanced services, and its clear statement of the relationship between the network and the services provided over the network. The Commission should ensure that the Federal universal service methodology is not a barrier to the deployment of advanced services in all areas of the nation. I look forward to the upcoming referral to the Joint Board of the definition of covered services.

E. Conclusion.

In summary, I strongly support the Rural Task Force recommendations. I urge the Commission to promptly and fully implement the package of proposals for a full five years. In

¹² See David Cosson’s comments at the en banc hearing.

¹³ On the other hand, if the carrier first buys the existing plant and then rebuilds it, the purchasing carrier gains ILEC status under the rules, but under rule 305 support is limited to the prior owner’s support. The Rural Task Force’s “Safety Valve” may ameliorate this problem, but does not eliminate it.

addition, I recommend that the Commission initiate a proceeding within the next six months and make a referral to the Joint Board concerning whether additional universal service measures are needed for unserved and significantly underserved areas where no service is available.

I thank and congratulate the Rural Task Force for its effort. I especially commend my colleague and good friend Commissioner Bill Gillis for his extraordinary leadership.

Commissioner Laska Schoenfelder concurs in this statement. Public Counsel Martha Hogerty concurs in the request for a referral concerning unserved areas.