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

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

THIRTEENTH REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: December 6, 2000 **Released: December 8, 2000**

Comment Date: 30 days from publication in the Federal Register
Reply Comment Date: 45 days from publication in the Federal Register

By the Commission:

I. INTRODUCTION

1. In this Thirteenth Report and Order, we adopt the recommendations of the Federal-State Joint Board on Universal Service (Joint Board) for phasing down the interim hold-harmless provision of the forward-looking high-cost universal service support mechanism for non-rural carriers.[1] Specifically, we adopt measures to phase down interim hold-harmless support, excluding Long-Term Support (LTS),[2] through $1.00 reductions in average monthly, per-line support beginning January 1, 2001, and every year thereafter until there is no more interim hold-harmless support. For the reasons discussed below, we believe that these measures will ensure a prompt, equitable phase-down of interim hold-harmless support without causing undue rate disruption. We conclude that several issues, such as appropriate reforms for the LTS program, should be addressed in the context of our pending proceedings for rural high-cost reform and/or interstate access charge reform for rate-of-return carriers.[3]

---

[1] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 15 FCC Rcd 14714 (released June 30, 2000) (*Recommended Decision*); 47 C.F.R. § 54.311. "Non-rural carriers" are local exchange carriers (LECs) that do not meet the definition of a rural telephone company contained in 47 U.S.C. § 153(37).

[2] LTS, which provides carriers that participate in the National Exchange Carrier Association (NECA) carrier common line pool with support for interstate-allocated loop costs, is one of two support mechanisms included under the interim hold-harmless provision. 47 C.F.R. §§ 54.303, 54.311(a); *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, 20474 (1999) (*Ninth Report and Order*), *pets. for review pending sub nom.*, *Qwest Corp. v. FCC*, 10th Cir. No. 99-9546 and consolidated cases (1999).

[3] *See Ninth Report and Order*, 14 FCC Rcd at 20439, n. 20 and accompanying text; *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). We note that the Rural Task Force submitted to the Joint Board recommendations regarding rural high-cost reform on September 29, 2000, and 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. *See Petition for Rulemaking of the LEC Multi-Association*
(continued….)

2. In the attached Further Notice of Proposed Rulemaking, we seek comment on the narrow issue of whether to continue to apply section 54.305 of the Commission's rules to transfers of telephone exchanges between non-rural carriers following the phase-down.[4] Section 54.305 requires a carrier that acquires an exchange to step into the seller's shoes for universal service support purposes.[5] The Commission adopted the rule in 1997 as a stopgap measure to prevent carriers receiving support based on the size of their study areas and embedded costs from "placing unreasonable reliance upon potential universal service support in deciding whether to purchase exchanges[.]"[6] Because all non-rural carriers will receive support based on forward-looking economic costs following the phase-down of interim hold-harmless support, we believe that the need for section 54.305 would no longer exist with regard to transfers between non-rural carriers once the phase-down is complete.

II. BACKGROUND

3. In the *Ninth Report and Order*, the Commission adopted a new high-cost universal service support mechanism for non-rural carriers, based on the estimated forward-looking economic costs of providing services eligible for support.[7] The Commission also adopted an interim hold-harmless provision to protect consumers in high-cost areas from potential rate shock as a result of any sudden, significant increases in rates during the shift to the new, forward-looking mechanism. Under the interim hold-harmless provision, a carrier receives the greater of the support amount for which it qualifies under the forward-looking mechanism or under two preexisting support mechanisms: (1) LTS;[8] and (2) high-cost loop support under Part 36 of the Commission's rules.[9]

4. The Commission emphasized in the *Ninth Report and Order* that the interim hold-harmless

(Continued from previous page)
Group, RM 10011 (filed October 20, 2000); *Letter of William R. Gillis, Chair, Rural Task Force to Magalie Roman Salas, Secretary, Federal Communications Commission*, CC Docket No. 96-45 (September 29, 2000) (RTF Recommendation). We intend to act expeditiously on these matters with full consideration of the interrelationships of the proposals.

[4] 47 C.F.R. § 54.305.

[5] *Id.*; *see Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8942-42 (1997) (*First Report and Order*) (subsequent history omitted).

[6] *Id.*

[7] *Ninth Report and Order*, 14 FCC Rcd at 20436-39. The Commission explained that using forward-looking economic costs provides sufficient support without giving non-rural carriers an incentive to inflate their costs or to refrain from efficient cost-cutting. *Id.* at 20443 (citations omitted). The forward-looking mechanism became effective January 1, 2000. *Id.* at 20439. The Commission's model for estimating forward-looking costs and the input values to be used in the model are discussed in a companion order. *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Tenth Report and Order, 14 FCC Rcd 20156 (1999) (*Tenth Report and Order*), *pets. for review pending sub nom., Qwest Corp. v. FCC*, 10th Cir. No. 99-9546 and consolidated cases (1999).

[8] *Ninth Report and Order*, 14 FCC Rcd at 20474; 47 C.F.R. § 54.311(a); *see* 47 C.F.R. § 54.303.

[9] *Ninth Report and Order*, 14 FCC Rcd at 20474; 47 C.F.R. § 54.311(a); *see* 47 C.F.R. §§ 36.601, *et. seq.* High-cost loop support provides carriers with federal support for a variable percentage of their unseparated loop costs, as reflected in their books, depending on their number of working loops and the degree to which their costs exceed the national average. *See Ninth Report and Order*, 14 FCC Rcd at 20440. The term "unseparated" refers to 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. Part 36.

provision is "a *transitional* provision" to avoid rate shock during the shift to forward-looking support.[10] Accordingly, we requested a Joint Board recommendation as to how interim hold-harmless support can be phased down or eliminated without causing undue rate disruption.[11] The Joint Board released its recommendations on June 30, 2000.[12] The Common Carrier Bureau subsequently requested comment on the Joint Board's recommendations in a public notice.[13] Twenty parties filed comments and reply comments with the Commission concerning the Joint Board's recommendations.[14]

5. The salient features of the Joint Board's recommended phase-down approach, which are discussed in detail below, are as follows. The Joint Board recommended that LTS be maintained under the current rules until the Commission considers appropriate reforms for the LTS program in connection with the pending proceedings for high-cost reform for rural carriers and/or interstate access charge reform for rate-of-return carriers.[15] It further recommended that the Commission phase down the balance of interim hold-harmless support, excluding LTS, through $1.00 reductions in average monthly, per-line support beginning January 1, 2001, and every year thereafter until there is no more interim hold-harmless support.[16] The Joint Board recommended against phasing down interim hold-harmless support that is transferred to a rural carrier when it acquires telephone exchanges from a non-rural carrier, until the Commission completes a review of section 54.305 of the Commission's rules or until rural high-cost reform is complete.[17]

III. PHASE DOWN OF INTERIM HOLD-HARMLESS SUPPORT

A. Long-Term Support

1. Background

6. LTS supports interstate access rates by reducing the carrier common line (CCL) charges[18]

---

[10] *Ninth Report and Order*, 14 FCC Rcd at 20478 (emphasis in original).

[11] *Id.* at 20479.

[12] *Recommended Decision,* 15 FCC Rcd at 14714.

[13] *Common Carrier Bureau Seeks Comment on Federal-State Joint Board on Universal Service Recommendations for Phasing Down Interim Hold-Harmless Provision*, CC Docket No. 96-45, Public Notice, 65 Fed.Reg. 44507 (July 18, 2000).

[14] *See* Appendix A.

[15] *Recommended Decision,* 15 FCC Rcd at paras. 8-10; ***see supra,*** n. 3.

[16] *Recommended Decision,* 15 FCC Rcd at paras. 13-15.

[17] *Id.* at paras. 19-21; *see* 47 C.F.R. § 54.305.

[18] CCL charges are per-minute charges that LECs assess on interexchange carriers to recover a portion of their interstate-allocated loop costs. LECs also recover interstate-allocated loop costs through subscriber line charges (SLCs), which are flat, non-traffic-sensitive charges. With regard to price-cap carriers, the Commission has taken measures to replace per-minute charges such as CCL charges with SLCs, in order to align the rate structure more closely with the manner in which costs are incurred. *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*, CC Docket Nos. 96-262 and 94-1, Sixth Report and Order, *Low-Volume Long-Distance Users*, CC Docket No. 99-249, Report and Order, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Eleventh Report and Order, 15 FCC Rcd 12962 at paras. 64-75, *pets. for review* (continued….)

of rate-of-return carriers that participate in the National Exchange Carrier Association (NECA) common line pool.[19] In the *First Report and Order*, the Commission concluded that the LTS program serves the public interest by facilitating interexchange service in high-cost areas, but that modifications were necessary to make LTS explicit, portable, and competitively neutral.[20] Therefore, the Commission continued the LTS program, but removed its recovery from the interstate access charge system and modified its calculation and distribution scheme.[21] The Commission anticipated that LTS for non-rural carriers would be subsumed in the new, forward-looking support mechanism in the near future.[22] The Commission anticipated, however, that rural high-cost reform would require a more extended time period, during which it sought to maintain the existing LTS support structure for rural carriers, as modified.[23] As stated above, the Commission's related proceedings to reform the high-cost support mechanism for rural carriers and to reform the interstate access charge system for rate-of-return carriers are pending.[24]

7. Rural carriers are the primary recipients of LTS and will receive approximately $381 million in LTS in the year 2000. LTS for non-rural carriers will total approximately $97 million in 2000, which is slightly more than half of the projected $184 million in net annual interim hold-harmless support.[25] Three non-rural carriers receive LTS: Roseville Telephone Company (Roseville) in California; North State Telephone Company in North Carolina; and Puerto Rico Telephone Company (PRTC), which is projected to receive over 90 percent (approximately $89 million) of the total annual LTS for all three carriers in 2000.[26]

8. The Joint Board recommended that LTS for non-rural carriers be maintained under the

(Continued from previous page)
pending, Texas Office of Public Util. Counsel et al. v. FCC, 5th Cir. Nos. 00-60434 (and consolidated cases) (2000).

[19] *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, 5352-54 (1997) (*Fourth Order on Reconsideration*).

[20] *First Report and Order*, 12 FCC Rcd at 9164-66.

[21] *Id.*; *see Fourth Order on Reconsideration*, 13 FCC Rcd at 5355-56.

[22] *First Report and Order*, 12 FCC Rcd at 8927.

[23] *Fourth Order on Reconsideration*, 13 FCC Rcd at 5362 (discussing *First Report and Order*).

[24] ***See supra***, n. 3 and accompanying text.

[25] *See* Appendix C. Support estimates for the year 2000 are based on projections from data for the first quarter of 2000, the same data which the Joint Board used in its *Recommended Decision*. Support estimates may vary from quarter to quarter because interim hold-harmless support is calculated on an ongoing, quarterly basis. *See Ninth Report and Order*, 14 FCC Rcd at 20474-75, 20480-81; 47 C.F.R. § 54.311(a). Appendix C also includes support estimates for the year 2001 based on projections from estimates for the first quarter of 2001 filed by USAC on November 2, 2000.

[26] *See* Appendix C. As a result of its merger with GTE Holdings (Puerto Rico) LLC, the Commission's rules require PRTC to convert to price-cap regulation, after which it would no longer be eligible to participate in the NECA pool or to receive LTS. The Commission extended PRTC's deadline to convert to price cap regulation to July 1, 2001, while it considers PRTC's waiver requests to remain subject to rate-of-return regulation or, alternatively, continue to receive LTS for a transitional period. *Puerto Rico Telephone Co. Petition for Waiver of Section 61.41 or Section 54.303(a) of the Commission's Rules*, CCB/CPD No. 99-36, Order, 15 FCC Rcd 9680 (released June 5, 2000) (*PRTC Waiver Order*).

Commission's current rules until the Commission considers appropriate reforms to the LTS program in connection with the pending proceedings for rural high-cost reform and/or interstate access charge reform for rate-of-return carriers.[27] It reasoned that no substitute for LTS currently exists for non-rural carriers, because LTS supports interstate-allocated costs, whereas the forward-looking mechanism supports only intrastate-allocated costs.[28] In addition, the Joint Board expressed concern about the potential rate impact on rural LTS recipients of phasing down LTS for non-rural carriers.[29] Twelve commenters support the Joint Board's recommendation regarding LTS, and none express opposition.[30] WorldCom, however, conditions its support on denial of PRTC's waiver requests.[31]

2. Discussion

9. We adopt the Joint Board's recommendation regarding LTS. The forward-looking mechanism adopted in the *Ninth Report and Order* does not replace LTS for non-rural carriers, contrary to the Commission's originally anticipated outcome.[32] Therefore, we agree with the Joint Board that LTS for non-rural carriers should be preserved until we have considered further reform of the LTS program. In addition, maintaining LTS for non-rural carriers is consistent with our objective to maintain the current support structure, as modified, for rural LTS recipients pending rural high-cost reform. Because LTS is geared primarily to the needs of small, rural carriers, we find that this determination should take place in the context of our related proceedings to reform the high-cost support mechanism for rural carriers and the interstate access charge system for rate-of-return carriers. We will examine these matters in the near future.[33]

B. High-Cost Loop Support for Non-Rural Carriers Under Part 36 of the Commission's

[27] *Recommended Decision*, 15 FCC Rcd at paras. 8-10.

[28] The Joint Board explained that, to properly account for the separations rules, the forward-looking mechanism provides support only for the percentage of total costs exceeding the national benchmark that are allocated to the *intrastate* jurisdiction, not for interstate-allocated costs such as those supported by LTS. *Id.* at para. 8.

[29] *See id.* at para. 9 ("Because NECA pools costs, revenues, and support to calculate an average CCL rate for pool participants, if LTS were phased down for the three eligible non-rural carriers without a corresponding reduction in costs, the CCL rate for all NECA pool participants would increase."). The Joint Board noted NECA's estimate that the loss of LTS for non-rural carriers could cause the NECA CCL rate to rise by up to 42 percent. *Id.*

[30] *See* AT&T Comments at 2, Florida Public Service Commission (Florida Commission) Comments at 1, General Services Administration (GSA) Comments at 3-5, NECA/NRTA/OPASTCO Comments at 2-4, NTCA Comments at 10-11, PRTC Comments at 2-3, Roseville Comments at 1-3, Telecommunications Regulatory Board of Puerto Rico (PRTRB) Comments at 2-3, USTA Comments at 3-4, and WorldCom Comments at 2. NECA, NRTA, and OPASTCO filed joint comments and reply comments with the Commission.

[31] *See* WorldCom Comments at 4-5; ***supra***, n. 26. GSA concurs with WorldCom that PRTC should not continue to receive LTS, and conditions its own support on the Commission "setting a schedule for completing the reforms within a reasonable period of time, such as 18 months." GSA Comments at 3 and Reply Comments at 7.

[32] *Ninth Report and Order*, 14 FCC Rcd 20467-68; *see First Report and Order*, 12 FCC Rcd at 8927.

[33] *See supra*, n. 3. We emphasize that, by adopting the Joint Board's recommendation regarding LTS, we are not prejudging PRTC's requests for waiver of the Commission's rules to remain subject to rate-of-return regulation or, alternatively, continue to receive LTS for a transitional period, ***see supra***, n. 26**,** which we have stated "raise complex issues regarding local competition, universal service support in Puerto Rico, and operation of the [NECA pool]." *PRTC Waiver Order*, 15 FCC Rcd at 9682.

Rules

1. Background

10. In addition to LTS, the interim hold-harmless provision provides support to eligible non-rural carriers based on the preexisting high-cost loop support mechanism under Part 36 of the Commission's rules.[34] Under this mechanism, 19 non-rural study areas are projected to receive a total of about $87 million in net annual interim hold-harmless support (excluding LTS) in the year 2000.[35] On a per-line basis, 12 of the 19 study areas receive average, monthly support of less than $1.00, five receive support of less than $2.00, one receives support of $3.26 (GTE North, Inc.-Missouri), and one (PRTC-Central) receives support of $12.06.[36]

11. The Joint Board recommended that the Commission phase down interim hold-harmless support, excluding LTS, through $1.00 reductions in average monthly, per-line support beginning January 1, 2001, and every year thereafter.[37] It also recommended that the Commission reexamine the phase-down schedule in conjunction with our comprehensive review of the forward-looking mechanism, which is to be completed by January 1, 2003.[38] Seven commenters generally favor this phase-down schedule.[39] Six

[34] *Ninth Report and Order*, 14 FCC Rcd at 20474.; 47 C.F.R. § 54.311(a).

[35] *See* Appendix C. This figure represents the projected $109 million in annual interim hold-harmless support (excluding LTS), less $22 million that will not be paid because the eligible study areas qualify for greater amounts of forward-looking support. *See Ninth Report and Order*, 14 FCC Rcd at 20474. Because high-cost loop support is calculated on a study-area basis under Part 36, we treat study areas separately for purposes of calculating interim hold-harmless support. *See* 47 C.F.R. § 36.601, *et seq.* As stated above, support estimates for the year 2000 are based on the same first quarter 2000 data that the Joint Board used, and may vary from quarter to quarter because support is calculated on an ongoing, quarterly basis. *See* ***supra***, n. 25. Based on first quarter 2001 estimates, five fewer study areas are projected to qualify for interim hold harmless support next year due to changes in carriers' average costs and line counts, and net annual interim hold-harmless support (excluding LTS) will decrease by a total of approximately $4 million. *See* Appendix C. In addition, the Mountain Bell-Wyoming study area will receive forward-looking support rather than interim hold-harmless support, and two study areas will no longer receive high-cost support under the interim hold-harmless provision because Central Telephone Company has self-certified as a rural carrier under the Commission's rules in Virginia and Texas.

[36] *See id.* Based on projections from estimates for the first quarter of 2001 filed by USAC on November 2, 2000, seven study areas will qualify for average, monthly support of less than $1.00 per-line in 2001, one will qualify for support of less than $2.00, one will qualify for support of over $2.00, and PRTC's two study areas will qualify for support of $2.59 and $10.21, respectively. *See id.* However, GTE's two Missouri study areas may no longer qualify for support once their costs are recalculated to reflect the transfer of some of GTE's highest-cost exchanges in Missouri to Spectra Communications Group, LLC (Spectra). *See Spectra Communications Group, LLC and GTE Midwest Incorporated, Joint Petition for Waiver of Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules and Section 69.3(e)(9) of the Commission's Rules, Petition for Waiver of Section 61.41(c) of the Commission's Rules*, CC Docket No. 96-45, Order, DA 00-1624 (Acc. Pol. Div. rel. Jul. 27, 2000); ***see also infra***, n. 66.

[37] *Recommmended Decision*, 15 FCC Rcd at paras. 13-15.

[38] *Id.*

[39] *See* AT&T Comments at 2, Florida Commission Comments at 1, GSA Comments at 6-7, New York Department of Public Service Comments (NYDPS) at 1-2, PRTRB Comments at 4, USTA Comments at 3, and (continued….)

commenters, representing LEC and state recipients of interim hold-harmless support, oppose any phase-down at this time.[40] The District of Columbia Public Service Commission (DC Commission) advocates immediate, across-the-board elimination of interim hold-harmless support.[41]

2. Discussion

12. We adopt the Joint Board's recommendation that interim hold-harmless support, excluding LTS, be phased down beginning January 1, 2001, through annual $1.00 reductions in each carrier's average monthly, per-line support until this support is eliminated.[42] This approach will promptly phase out interim hold-harmless support for the majority of carriers currently receiving less than $1.00 per-line/per-month, without reducing any carrier's average monthly, per-line support by more than $1.00 per year.[43] Thus, there will be no significant, sudden reductions in per-line support to an individual study area. We agree with the Joint Board that this approach is a reasonable means of ensuring a prompt, equitable phase-down of interim hold-harmless support without causing undue rate disruption, consistent with the objectives we announced in the *Ninth Report and Order*.[44]

13. We also agree with the Joint Board that the phase-down schedule should be reexamined in conjunction with our review of the forward-looking mechanism, which is to be completed by January 1, 2003.[45] At that time, PRTC is likely to be the only carrier still receiving interim hold-harmless support,[46] and more information will be available on the impact of the phase-down in Puerto Rico. We disagree with

(Continued from previous page)
WorldCom Comments at 5-8. As discussed below, the Florida Commission and WorldCom object to the phase-down schedule as applied to one Puerto Rico study area. ***See infra***, para. 13.

[40] *See* PRTC Comments at 3-6, Sprint Comments at 1-3, Verizon Comments at 2-4, Wyoming Public Service Commission (Wyoming Commission) Comments at 3-6, Qwest Reply Comments at 1-4, Valor Telecom. Enterprises, LLC (Valor) Reply Comments at 2. PRTC is a Verizon subsidiary as a result of PRTC's acquisition by GTE and the subsequent Bell Atlantic-GTE merger to form Verizon.

[41] DC Commission Comments at 3-4. Notwithstanding its position, the DC Commission acknowledges that the Joint Board's recommended approach "may . . . also be reasonable." *Id.* at 1.

[42] For example, under this approach a study area that qualifies for $3.00 in average monthly, per-line support would receive support of $2.00 ($3.00 - $1.00) during the year 2001, $1.00 during the following year ($3.00 - $2.00), and no support ($3.00 - $3.00) thereafter.

[43] Specifically, based on first quarter 2001 estimates (and not taking into account the recent GTE transfers), this approach is projected to phase out interim hold-harmless support for 7 of 11 study areas that otherwise would qualify for such support in 2001. One more study area will be phased out in 2002, two in 2003, and PRTC-Central in 2011. *See* Appendix C; *see also supra*, n. 35, 36.

[44] *See Ninth Report and Order*, 14 FCC Rcd at 20478. The Joint Board observed that it considered "a range of options, from the immediate, across-the-board elimination of interim hold-harmless support advocated by some commenters, to the 'wait-and-see' approach advocated by others." *Recommended Decision*, 15 FCC Rcd at para. 13. We note that although some commenters continue to advocate these diametrically opposed alternatives, ***see infra***, para. 14, none proposes a different or modified phase-down schedule, except the Florida Commission and WorldCom with regard to one PRTC study area.

[45] *Recommended Decision*, 15 FCC Rcd at para. 13; *see Ninth Report and Order*, 14 FCC Rcd at 20479.

[46] *See* Appendix C; ***supra***, n. 43.

those commenters that argue for a more accelerated phase-down for PRTC.[47] Based on the current record, we cannot determine whether acceleration of the annual phase-down rate after two years, as WorldCom proposes, would result in rate shock. Our approach, however, will ensure that rate shock is minimized. We reject the arguments of the Florida Commission and WorldCom that the current schedule discriminates in favor of PRTC. The phase-down rate is the same for all interim hold-harmless recipients. Indeed, although PRTC's support will take longer to phase down than any other carrier's because it receives higher amounts of per-line support, PRTC also will lose more total interim hold-harmless support than any other carrier as a result of the phase-down.[48] We conclude the approach recommended by the Joint Board reasonably balances the need to phase down interim hold-harmless support in an equitable way with a desire to minimize potential rate shock for Puerto Rico.

14. We disagree with commenters who argue that interim hold-harmless support should be preserved at its current level pending resolution of other federal high-cost issues, including rural high-cost reform and exhaustion of "all judicial appeals[.]"[49] We adopted the interim hold-harmless provision to ensure a nondisruptive transition to the forward-looking mechanism for non-rural carriers, not to provide a means of postponing or avoiding the need for a transition in the event that some parties raised concerns regarding this mechanism.[50] As stated above, we are mindful of the interrelationships between different elements of the federal universal service scheme, but we are not persuaded that any of the high-cost issues or decisions cited by commenters justify postponement of this transition. Based on our examination of the record, we conclude that the public interest will be served by expeditiously advancing the transition to forward-looking support for non-rural carriers.

a. Mechanics of Phase-Down

15. To ensure that the phase-down conforms with the quarterly schedule on which interim hold-harmless support is calculated, the Joint Board recommended that the applicable annual reductions be subtracted from the interim hold-harmless support that a carrier otherwise would be eligible to receive on an ongoing, quarterly basis.[51] We adopt this recommendation. We disagree with the New York

[47] The Florida Commission and WorldCom argue that, unless the annual rate of $1.00 is accelerated, the phase-down period will be too long and will primarily benefit PRTC. Florida Commission Comments at 1-2; WorldCom Comments at 2, 5-8. On the other hand, PRTC contends that the support "remains critical to PRTC's efforts to provide affordable, basic telephone service throughout Puerto Rico," and that its loss will result in rate shock. PRTC Comments at 5. Puerto Rico's state regulatory agency supports the Joint Board's recommended approach. *See* PRTRB Comments at 4.

[48] *See* Appendix C.

[49] Verizon Comments at 4; *see also Recommended Decision*, 15 FCC Rcd at para. 15 (addressing similar arguments).

[50] *See Ninth Report and Order*, 14 FCC Rcd at 20478-79. In this regard, we note that many of the arguments against phase-down essentially challenge the validity or sufficiency of the forward-looking mechanism. *See, e.g.*, PRTC Comments at 3 (arguing that forward-looking support methodology and its inputs "are flawed and drastically change the level of support to be provided to Puerto Rico."); Wyoming Commission Comments at 4 (arguing that Wyoming already receives insufficient federal high-cost support, and the pending loss of any additional support would exacerbate the situation). The appropriate context for such challenges is in petitions for reconsideration of the *Ninth* and *Tenth Reports and Orders*, or in the comprehensive review of the forward-looking mechanism.

[51] *Recommended Decision*, 15 FCC Rcd at para. 16; *see Ninth Report and Order*, 14 FCC Rcd at 20474-75, 20480-81; 47 C.F.R. § 54.311(a).

Department of Public Service's (NYDPS) argument that this approach would defeat the intent of the phase-down because a carrier may continue to be eligible for interim hold-harmless support during a particular year even if it does not qualify for such support in a given quarter.[52] The possibility that interim hold-harmless support amounts will vary from quarter to quarter does not affect the consistency of the annual phase-down rate. We also agree with the Joint Board that this method of calculating interim hold-harmless support during the phase-down is the most equitable to interim hold-harmless recipients and the easiest to administer.[53]

16. We also conclude that the targeting provisions of the *Ninth Report and Order* should govern the distribution of phased-down support. Although non-rural carriers receive interim hold-harmless support based on embedded costs averaged over their entire study areas, the support is targeted for competitive purposes to their highest-cost exchanges based on forward-looking economic costs.[54] The Joint Board did not address the issue of whether phased-down support should be targeted to individual exchanges, except in connection with transferred exchanges.[55] We find, however, that targeting phased-down interim hold-harmless support to a carrier's highest-cost exchanges is consistent both with the Joint Board's recommendations and with the *Ninth Report and Order*. Accordingly, we disagree with PRTC's argument that any phase-down should be calculated on a wire-center basis to avoid "a premature and detrimental reduction in support to the highest cost wire centers, contrary to the Commission's targeting rules."[56]

b. Calculation of High-Cost Loop Support for Rural Carriers

17. We adopt the Joint Board's recommendation that the "interim cap" on high-cost loop support for rural carriers be calculated as if phased-down interim hold-harmless support were being distributed to non-rural carriers, pending reform of the high-cost support mechanism for rural carriers.[57] Under the current rules, universal service support for all carriers under Part 36 is restricted by a cap that limits the total increase in support each year to the annual growth in nationwide loops.[58] To avoid smaller

---

[52] *See* NYDPS Comments at 2. For example, if during the year 2001 a carrier otherwise would be eligible for quarterly support of $1.05, $0.95, $1.05, and $0.95 per-line/per-month, respectively, then it would receive support of $0.05 during the first and third quarters of the year, but no support for the second and fourth quarters. The following year, a $2.00 reduction would be applicable and the carrier would no longer receive support.

[53] *Recommended Decision*, 15 FCC Rcd at para. 16.

[54] 47 C.F.R. § 54.311(b); *Ninth Report and Order*, 14 FCC Rcd at 20476-78; *see Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Twentieth Order on Reconsideration*, 15 FCC Rcd 12070 (2000), at paras. 15-16 (clarifying "cascading approach" to targeting of interim hold-harmless support). Consistent with the portability provisions of the *Ninth Report and Order*, targeting "ensures that, in a wire center where the incumbent is receiving hold-harmless support, a competitor will receive an amount of support that is related to the costs in that wire center." *Ninth Report and Order*, 14 FCC Rcd at 20477. For purposes of the instant Report and Order and Notice of Proposed Rulemaking, the terms "exchange" and "wire center" are synonymous, and "exchange" is used to refer to both.

[55] *See Recommended Decision*, 15 FCC Rcd at paras. 19-22; *see also* Wyoming Commission Comments at 6 (requesting clarification as to whether the Commission's targeting provisions will apply to any phase-down).

[56] PRTC Comments at 3-4.

[57] *Recommended Decision*, 15 FCC Rcd at paras. 17-18.

[58] *See generally* 47 C.F.R. Part 36, Subpart F. We note that the Rural Task Force has recommended to the Joint Board modifications in the method by which the cap is calculated. *See* RTF Recommendation at 23-25.

annual increases in the support available to rural carriers as a result of the shift to forward-looking support for non-rural carriers, we directed in the *Ninth Report and Order* that the cap be calculated as if all carriers continue to participate in the preexisting Part 36 high-cost support mechanism.[59] Subtracting phased-down support amounts from calculation of the cap likewise could result in smaller annual cap increases, because the prior year support level used to calculate the cap includes the high-cost loop support for non-rural carriers under Part 36 that will be phased down as a result of the approach we adopt herein. Accordingly, we agree with the Joint Board that an interim "placeholder" measure is warranted to avoid significant and immediate changes in high-cost support for rural carriers as a result of the phase-down. We disagree with the NYDPS's argument that "the Joint Board is seeking to provide [rural carriers] with yet additional support based upon the operations of non-rural carriers."[60] The calculation method we adopt is consistent with our commitment "not to consider significant changes in rural carriers' support until after the Rural Task Force and the Joint Board have made their recommendations" regarding rural high-cost reform.[61] In accordance with the Joint Board's recommendations, we also conclude that phased-down support for non-rural carriers (support calculated as a "placeholder") should not be collected or distributed to other carriers.[62] We note that we expect this placeholder to remain in effect for a limited time, as we are committed to moving forward expeditiously on high-cost reform for rural carriers.

c. Transferred Interim Hold-Harmless Support

18. The transfer of interim hold-harmless support is governed by the targeting provisions of the *Ninth Report and Order* and section 54.305 of our rules. As stated above, although carriers receive interim hold-harmless support based on embedded costs averaged over their entire study areas, the support is targeted for competitive purposes to their highest-cost telephone exchanges based on forward-looking economic costs.[63] Section 54.305 requires a carrier that acquires an exchange to step into the seller's shoes for universal service support purposes.[64] Under these provisions, as of the date of the sale, the acquiring company receives the same per-line, targeted interim hold-harmless support amount for the transferred exchange that the seller was eligible to receive as of the date of the sale. The Joint Board identified an issue, however, as to "whether transferred interim hold-harmless support should be phased down following the transfer, as it would have been if it had not been transferred, or should remain frozen at the per-line support level as of the sale date."[65] To date, a total of approximately $9 million in annual interim hold-

[59] *Ninth Report and Order*, 14 FCC Rcd at 20490-92.

[60] NYDPS Comments at 3.

[61] *Ninth Report and Order*, 14 FCC Rcd at 20490-91.

[62] *Recommended Decision*, 15 FCC Rcd at para. 18. Arguments that the interim cap should be eliminated entirely are outside the scope of this proceeding, and are currently before the Joint Board in connection with the RTF Recommendation. *See* NECA/NRTA/OPASTCO Comments at 8, NTCA Comments at 10; ***supra***, n. 3. We note that, contrary to NTCA's argument, there are no remaining caps on high-cost loop support for individual study areas. NTCA Comments at 5-9; *see Petitions for Waiver Concerning the Definition of "Study Area" Contained in Part 36 Appendix-Glossary of the Commission's Rules filed by Accent Comm'ns, Inc., et al.*, CC Docket No. 96-45, Order, DA 00-1761 (Common Carrier Bur. rel. Aug. 4, 2000).

[63] ***See supra***, n. 54 and accompanying text.

[64] 47 C.F.R. § 54.305. Specifically, the rule provides that "[a] carrier that acquires telephone exchanges from an unaffiliated carrier shall receive universal service support for the acquired exchanges at the same per-line support levels for which those exchanges were eligible prior to the transfer of the exchanges." *Id.*

[65] *Recommended Decision*, 15 FCC Rcd at para. 19.

harmless support has been transferred.[66]

19. The Joint Board expressed general concern about the operation of section 54.305 with regard to transfers between carriers that are not both receiving support based on forward-looking economic costs.[67] It urged the Commission to consider alternatives to the rule. In the meantime, or until rural high-cost reform is completed, the Joint Board recommended that interim hold-harmless support for exchanges transferred to a rural carrier not be phased down following the transfer.[68] The Joint Board recommended, however, that interim hold-harmless support for exchanges transferred to non-rural carriers be phased down over the same time period as the seller's support would have been phased down.[69] Six commenters generally support the Joint Board's recommendations.[70] AT&T and the NYDPS oppose these recommendations.[71]

20. We are mindful of the Joint Board's concerns regarding the operation of section 54.305. As the Joint Board recognized, however, the rule serves the important purpose of preventing carriers receiving support based on the size of their study areas and embedded costs from "placing unreasonable reliance upon potential universal service support in deciding whether to purchase exchanges[.]"[72] Section 54.305 was adopted as a temporary measure to be utilized during our transition to universal service support mechanisms that provide support to all carriers based on the forward-looking economic costs of operating a given exchange.[73] The Joint Board is currently considering reform of the rural high-cost support mechanism, including the operation of section 54.305 for rural carriers.[74] We believe that the rural

[66] Valor currently receives about $71,000 per month in interim hold-harmless support for exchanges acquired from GTE Southwest Inc. in Texas. *See Valor Telecommunications of Texas, LP and GTE Southwest Incorporated, Joint Petition for Waiver of Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules*, CC Docket No. 96-45, Order, DA 00-1908 (Acc. Pol. Div. rel. Aug. 21, 2000). Spectra currently receives about $693,000 per month in interim hold-harmless support for exchanges acquired from GTE in Missouri. ***See supra***, n. 36. We note that Valor has self-certified as a rural carrier under the Commission's rules, and that Western Wireless Corporation has filed a petition challenging Valor's self-certification. *See Common Carrier Bureau Seeks Comment on Western Wireless Corporation Petition to Reject Valor Telecommunications Southwest, LLC Rural Telephone Company Self-Certification*, Public Notice, DA 00-1882 (rel. August 17, 2000).

[67] *Recommended Decision*, 15 FCC Rcd at para. 20 ("by freezing support based on the seller's embedded costs, the rule prevents the acquiring carrier from receiving an amount of support related to the costs of providing supported services in the transferred exchange. Moreover, the rule requires the acquiring carrier to keep separate books of account for the acquired exchanges for an indefinite period of time.").

[68] *Id.* at para. 21.

[69] *Id.* at para. 22.

[70] *See* NECA/NRTA/OPASTCO Comments at 5-6, NTCA Comments at 3-5, RICA Reply Comments at 2-3, and Valor Reply Comments at 3-4.

[71] *See* AT&T Comments at 4-6, NYDPS Comments at 3-4.

[72] *First Report and Order*, 12 FCC Rcd at 8942-43; *see Recommended Decision*, 15 FCC Rcd at para. 20; *see also* AT&T Comments at 6.

[73] *See First Report and Order*, 12 FCC Rcd at 8942-43.

[74] We note that the Rural Task Force has recommended to the Joint Board retention of section 54.305 with a new "safety valve" mechanism permitting additional support for transferred exchanges if the acquiring rural carrier makes meaningful new investments. *See* RTF Recommendation at 47-48.

high-cost reform proceeding is the most appropriate context in which to reexamine the operation of section 54.305 with regard to transfers involving rural carriers.

21. We therefore adopt the Joint Board's recommendation not to phase down interim hold-harmless support for eligible exchanges transferred to rural carriers until we reexamine section 54.305 or until rural high-cost reform is complete. We disagree with AT&T's argument that section 54.305 requires that an acquiring rural carrier "receive no more than the necessary [forward-looking] support amount" following the phase-down.[75] The Commission did not determine in the *Ninth Report and Order* that forward-looking support calculated under the new mechanism for non-rural carriers is appropriate for rural carriers, as AT&T's argument suggests. We recognize that the Joint Board's recommended approach raises gaming concerns with regard to transfers from nonrural to rural carriers.[76] However, the window of opportunity for gaming will be small, because under the phase-out schedule most exchanges will no longer receive interim hold-harmless support as of January 1, 2001. On balance, we conclude that adoption of the Joint Board's recommended approach would serve the public interest.

22. We also adopt the Joint Board's recommendation that interim hold-harmless support for exchanges transferred to non-rural carriers be phased down over the same time period as the seller's support would have been phased down.[77] We agree with the Joint Board that this approach will ensure a prompt and equitable phase-down of transferred interim hold-harmless support, and discourage carriers from transferring exchanges to delay or avoid the phase-down of interim hold-harmless support. In addition, we adopt the recommendation that targeted support for exchanges transferred to non-rural carriers be phased down by an equal percentage for each year of the phase-down period, on an exchange-by-exchange basis.[78] This approach will be administratively simple and predictable for acquiring non-rural carriers.

IV. FURTHER NOTICE OF PROPOSED RULEMAKING

23. As set forth above, section 54.305 of the Commission's rules requires a carrier that

[75] AT&T Comments at 6; *see also* NYDPS Comments at 3-4.

[76] *See* AT&T Comments at 5-7; *see also infra*, n. 80 and accompanying text. Specifically, it could encourage transfers to rural carriers merely to preserve interim hold-harmless support, and allow sellers to obtain the benefit of such support by inflating the sale price.

[77] As the Joint Board explained, because targeted support is likely to be greater than average support on a per-line basis, targeted support for exchanges transferred to non-rural carriers must be reduced at a faster rate than the seller's support to be phased down over the same time period. *Recommended Decision*, 15 FCC Rcd at para. 22.

[78] For example, assume Carrier A is entitled to interim hold-harmless support in 2000 of $2.50 per-line/per-month. Thus, Carrier A's support would be phased down over a three-year period: in 2001, Carrier A would receive monthly per-line support of $1.50, then $.50 in 2002, then zero in 2003. Assume further that Carrier A sells three exchanges to Carrier B in 2000, and that the targeted interim hold-harmless support for the transferred exchanges at the time of sale is $3.00, $6.00, and $9.00 per-line/per-month, respectively. Under the approach we adopt herein, the transferred support would be phased down over a three-year period, and Carrier B's support would not depend on subsequent recalculations of Carrier A's phased-down support levels. In 2001, Carrier B would receive per-line support for the transferred exchanges of $2.00 (=67% of $3.00), $4.00 (=67% of $6.00), and $6.00 (=67% of $9.00), respectively. In 2002, the per line support for each transferred exchange would be 33 percent of the original support levels. In 2003, support would phase down to zero for all three exchanges. In 2001 and 2002, Carrier A would receive the support it would have received absent the sale, minus the support that is paid to Carrier B for the three transferred exchanges.

acquires a telephone exchange from an unaffiliated carrier to step into the seller's shoes for universal service support purposes.[79] The Commission adopted the rule in 1997 as a stopgap measure to prevent carriers receiving support based on the size of their study areas and embedded costs from "placing unreasonable reliance upon potential universal service support in deciding whether to purchase exchanges[.]"[80] The Commission anticipated that the rule would no longer be necessary once all carriers received support based on forward-looking economic costs.[81]

24. Following the phase-down of interim hold-harmless support, all non-rural carriers will receive high-cost support based on the forward-looking economic costs of operating a given exchange. As a result, "the level of support will not be a primary factor in a [non-rural] carrier's decision to purchase exchanges because the carrier's support will not be based on the size of the study area nor embedded costs."[82] We believe this rule change is necessary regardless of the outcome of the current Joint Board examination of the RTF Recommendation on section 54.305,[83] because application of section 54.305 to transfers between non-rural carriers may impede operation of the forward-looking mechanism by preventing calculation of the forward-looking economic costs of operating a transferred exchange on an ongoing, quarterly basis.[84] We, therefore, seek comment on whether to amend section 54.305 of our rules so that it does not apply to transfers of exchanges between non-rural carriers following the phase-down of interim hold-harmless support.

V. PROCEDURAL MATTERS

a. Regulatory Flexibility Act Certifications—Final and Initial

25. The Regulatory Flexibility Act (RFA)[85] requires an Initial Regulatory Flexibility Analysis (IRFA)[86] of the possible significant economic impact on small entities of proposed policies and rules, and a Final Regulatory Flexibility Analysis (FRFA)[87] whenever an agency subsequently promulgates a final rule, unless the agency certifies that the proposed or final rule will not have "a significant economic impact on a substantial number of small entities," and includes the factual basis for such certification. The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[88] In addition, the term "small business" has the same

---

[79] 47 C.F.R. § 54.305; ***see supra***, n. 64 and accompanying text.

[80] *First Report and Order*, 12 FCC Rcd at 8942-43.

[81] *See id.*

[82] *Id.*

[83] ***See supra***, n. 74. The RTF Recommendation focuses on the operation of section 54.305 when the acquiring carrier is a rural carrier eligible to receive high-cost support based on embedded costs. *See id.*

[84] *See Ninth Report and Order*, 14 FCC Rcd at 20480-81.

[85] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[86] *See* 5 U.S.C. § 603.

[87] *See* 5 U.S.C. § 604.

[88] 5 U.S.C. § 601(6).

meaning as the term "small business concern" under the Small Business Act.[89] A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[90] The SBA defines a small telecommunications entity in Standard Industrial Classification Code 4813 (Telephone Communications, Except Radiotelephone)[91] as an entity with 1,500 or fewer employees.

26. We conclude that neither an FRFA nor an IRFA is required here. The foregoing Thirteenth Report and Order and Further Notice of Proposed Rulemaking adopts a final rule and proposes a rule change. The rules adopted and the proposed rules affect the amount of high-cost support provided to non-rural carriers. Non-rural carriers generally do not fall within the SBA's definition of a small business concern because they are usually large corporations or affiliates of such corporations. Thus, the final rules adopted here do not affect a substantial number of small entities. Therefore, we certify, pursuant to section 605(b) of the RFA, that the final rule adopted and the rule change proposed in the Thirteenth Report and Order and Further Notice of Proposed Rulemaking will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Thirteenth Report and Order and Further Notice of Proposed Rulemaking and of this certification to the Chief Counsel for Advocacy of the SBA. In addition, this certification will be published in the Federal Register.[92] The Commission will send a copy of this Thirteenth Report and Order and Further Notice of Proposed Rulemaking, including a copy of this certification, in a report to Congress pursuant to the SBREFA.[93]

b. Effective Date of Final Rules

27. We conclude that the amendments to our rules adopted herein shall be effective upon publication in the Federal Register. In this Thirteenth Report and Order we conclude that the phase-down of interim hold-harmless support, excluding LTS, will be implemented beginning January 1, 2001. Thus, the amendments must become effective by January 1, 2001. Making the amendments effective 30 days after publication in the Federal Register would jeopardize the required January 1, 2001 implementation date. This implementation date is important because January 1, 2001 is the beginning of a new funding year, and interim hold-harmless support is a *transitional* funding mechanism that increases the size of the federal high-cost fund and should be phased down as rapidly as possible without causing undue disruption to consumer rates in high-cost areas. Accordingly, pursuant to the Administrative Procedure Act, we find good cause to depart from the general requirement that final rules take effect not less than 30 days after their publication in the Federal Register.

c. Paperwork Reduction Act

28. The instant Report and Order contains no information collections, and the instant Further

[89] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." 5 U.S.C. § 601(3).

[90] 15 U.S.C. § 632.

[91] 13 C.F.R. § 121.201, SIC Code 4813.

[92] 5 U.S.C. § 605(b).

[93] 5 U.S.C. § 801(a)(1)(A).

Notice proposes no information collections.

d. Comment Filing Procedure

29. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments 30 days or fewer from publication in the Federal Register, and reply comments 45 days or fewer from publication in the Federal Register. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 Fed. Reg. 24,121 (1998).

30. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

31. Parties who choose to file by paper must file an original and four copies of each filing. All paper filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Parties who choose to file by paper also must send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street S.W., Room 5-B540, Washington, D.C. 20554. In addition, parties who choose to file by paper must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

VI. ORDERING CLAUSES

21. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4, 201-205, 214, 218-220, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, 214, 218-220, 254, 303(r), 403, and 410, this Thirteenth Report and Order IS ADOPTED.

22. IT IS FURTHER ORDERED that Part 36 of the Commission's rules, 47 C.F.R. Part 36, IS AMENDED as set forth in Appendix B hereto, effective immediately upon publication in the Federal Register.

23. IT IS FURTHER ORDERED that Part 54 of the Commission's rules, 47 C.F.R. Part 54, IS AMENDED as set forth in Appendix B hereto, effective immediately upon publication in the Federal Register.

24. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4, 201-205, 214, 218-220, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, 214, 218-220, 254, 303(r), 403, and 410, this Further Notice of Proposed Rulemaking IS ADOPTED and comments ARE REQUESTED as described above.

25. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of the Thirteenth Report and Order and Further Notice of Proposed Rulemaking, including the Regulatory Flexibility Act Certifications, to the Chief

Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

APPENDIX A

Parties Filing Comments and Reply Comments

Comments:

1. AT&T
2. General Services Administration
3. National Exchange Carrier Association, Inc., National Rural Telecom Association, and Organization for the Promotion and Advancement of Small Telecommunications Companies
4. National Telephone Cooperative Association
5. Public Service Commission of the District of Columbia
6. Puerto Rico Telephone Company, Inc.
7. Roseville Telephone Company
8. Sprint Corporation
9. State of Florida Public Service Commission
10. State of New York Department of Public Service
11. Telecommunications Regulatory Board of Puerto Rico
12. United States Telecom Association
13. Verizon
14. WorldCom, Inc.
15. Wyoming Public Service Commission

Reply Comments:

1. AT&T
2. General Services Administration
3. National Exchange Carrier Association, Inc., National Rural Telecom Association, and Organization for the Promotion and Advancement of Small Telecommunications Companies
4. Puerto Rico Telephone Company, Inc.
5. Qwest Corporation
6. Rural Independent Competitive Alliance
7. Valor Telecommunications Enterprises, LLC

APPENDIX B
Final Rules

Part 36 of Title 47 of the Code of Federal Regulations is amended as follows:

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

Subpart F – Universal Service Fund

1. Section 36.601 is amended to add the following sentence at the end as paragraph (c):

§ 36.601

(c) . . . Support amounts calculated pursuant to this subpart F but not received due to the phase down of interim hold-harmless support or the receipt of forward-looking support pursuant to section 54.311 of this Chapter shall not be redistributed to other carriers.

Part 54 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 54 – UNIVERSAL SERVICE

Subpart D – Universal Service Support for High Cost Areas

2. Add paragraph (d) to § 54.311 to read as follows:

§ 54.311

(d) *Phase down of interim hold-harmless support*. Beginning January 1, 2001, the interim hold-harmless support for which a non-rural incumbent local exchange carrier qualifies under paragraph (a) of this section, excluding Long Term Support, shall be phased down through annual $1.00 reductions in average monthly, per-line support. Applicable annual reductions shall be subtracted from the total amount of interim hold-harmless support that a non-rural incumbent local exchange carrier otherwise would be eligible to receive on an ongoing, quarterly basis. The provisions of paragraph (b) of this section shall apply to the total amount of phased-down interim hold-harmless support provided to each non-rural incumbent local exchange carrier.

(1) Interim hold-harmless support for a wire center transferred to a carrier that does not meet the definition of rural telephone company in § 51.5 of this chapter shall be phased down following the transfer over the same time period as the seller's support would have been phased down, by an equal percentage for each year of the phase-down period.

(2) Interim hold-harmless support for a wire center transferred to a carrier that meets the definition of rural telephone company in § 51.5 of this chapter shall remain frozen at the per-line support level as of the sale date.

STATEMENT OF COMMISSIONER HAROLD FURCHTGOTT-ROTH, APPROVING IN PART AND DISSENTING IN PART

Re: *Federal-State Joint Board on Universal Service,* Thirteenth Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-45.

I cannot endorse the Commission's decision that "hold-harmless" loop support be phased out over the next three years, so that non-rural carriers eventually will receive universal service support based exclusively on the model that the Commission adopted last year. That model never worked, and it has no prospect of working. As I have said before, the model does not satisfy the Act's basic requirements that universal service support be "specific" and "predictable," and I believe that relying in any way on this model does not meet the requirements of the statute. I therefore dissent from those aspects of this order that reach that conclusion.