

**SEPARATE STATEMENT OF COMMISSIONER LILA A. JABER,
FLORIDA PUBLIC SERVICE COMMISSION**

Re: Federal-State Joint Board on Universal Service, Recommended Decision

The FCC has asked the Joint Board to review the FCC's current rules relating to high-cost universal service support mechanisms to ensure that the dual goals of preserving universal service and promoting competition continue to be fulfilled. By no means is this an easy task. On the other hand, this review is overdue in light of an evolving telecommunications market and the ongoing responsibility to maintain accessible, affordable telephone service for every American, while addressing the unintended consequence of a rapidly growing federal universal service fund. In meeting these obligations, I am optimistic that the recommended decision, if adopted by the FCC, has the potential of advancing the goal of universal service, ensuring long-term sustainability of the fund, and maintaining competitive neutrality. With that said, I recognize that there may be administrative difficulties that will have to be overcome should the FCC choose to go forward with our recommendations. I do believe that these difficulties, or "opportunities," can be addressed. This recommended decision at the very least will generate additional comments and constructive implementation suggestions to the FCC from various stakeholders.

I recognize the hard work of the universal service joint board staff and offer my sincere thanks. Their dedication and expertise in putting this complex matter into a simple form is evident in the work product. This document is yet another example of federal-state cooperation. In that same spirit, I applaud the tireless efforts of my joint board colleagues. This was an extremely difficult decision with good, plausible arguments on each side of every issue. At the end of the proverbial day, I remain hopeful that the ongoing dialogue from this point forward will result in optimal solutions to these matters.

ETC Designation Process

In the recommended decision, we propose that the FCC adopt permissive, minimum guidelines that state commissions and the FCC may use for all ETC designation proceedings. Use of these permissive guidelines should provide a more consistent application process among states. More importantly, these guidelines should further assist state regulators in determining if the public interest would be served by designating additional carriers as ETCs, thereby qualifying additional carriers for federal universal service support. I agree with the commenters who suggested that encouraging a more rigorous fact-finding ETC designation process for all carriers, in both rural and nonrural areas, should ensure that only carriers fully committed to meeting universal service obligations have access to the already-growing federal universal service fund.¹

¹ See, e.g., BellSouth Comments at 2 ("Strengthening the eligibility requirements for obtaining ETC status is a critical step in ensuring that the universal service fund remains 'specific, predictable and sufficient,' as required by Section 254."); see also NASUCA Comments at 8-9.

Examples of the guidelines we propose be considered in the review process include suggesting that a carrier demonstrate its overall financial viability as well as its technical ability to provide quality services throughout its entire designated area. I find these permissive guidelines eminently reasonable. In fact, it should be clear that a state may impose additional requirements for ETC certification if the state so chooses. By this recommended decision, we clearly intend to maintain state flexibility in the ETC designation process — authority some state commissions can clearly find in Section 214(e)(2). For other states, where certain carriers are not subject to the jurisdiction of a state commission, this recommended decision clarifies that the FCC, in implementing Section 214(e)(6), should apply these same guidelines.

Scope of Support

At the center of this recommended decision is a proposal to limit high-cost support to a primary connection for residential and business customers. This is a departure from the current structure that allows all ETCs to receive federal universal service support for all lines. This structure has created a situation where multiple ETCs in high-cost rural areas automatically receive support even if a carrier does not have an economically rational business case to support such entry. We should not support the current framework that allows subsidies to flow to multiple competitors where it is already cost prohibitive for a single provider. Some commenters believe that states have used multiple carrier ETC designation as a means to attract more universal service funds into the state.² While I do not know if this has happened, I do believe that the universal service fund should not be used to artificially induce competitive entry that would not have otherwise occurred. Instead, universal service funds should be used for the purpose intended --- to provide universal access to a customer by providing the appropriate funding for a single connection. This is the goal of universal service, as recognized as early as 1996 by the Joint Board. Implementation of the primary-connection proposal may well be essential in order to preserve the long-term sustainability of the federal universal service fund. Otherwise, excess support and resulting increases in USF assessment fees which flow through to consumers, thereby directly impacting their bills, can detract from the goal of universal access and affordability. Moreover, if this proposal is administratively feasible and can be implemented reasonably, the potential exists to provide the appropriate entry signals in rural and high cost areas. Carriers can and should compete for the primary connection since that is the trigger for receiving support from the fund under this proposal.

I also recognize that it is absolutely necessary to mitigate any potentially adverse impact of a primary line restriction on the rural carriers. Therefore, I support the proposal to seek further comment on “rebasin” the high-cost support that carriers currently receive. In areas where only one ETC is present, carriers should receive no less support than they receive now. In areas served by more than one ETC, we envision that customers would select their primary carrier.

² See, e.g., NASUCA Comments at 8-9.

Notably, a rural carrier would lose support under this primary-connection proposal only if it loses the customer to another ETC, whether it be a wireline or wireless competitor. I believe this answers, at least in part, the concern raised by some commenters that primary line restrictions will limit the availability of wireless service in rural areas, which could negatively impact the area's economic development. Under this recommended decision, wireless carriers can be selected by customers as the primary carrier, thus enabling wireless carriers to receive support from the fund in rural and other areas. Recently in addressing Virginia Cellular's application for ETC designation, FCC Chairman Powell stated that, "[d]espite the importance of making rural, facilities-based competition a reality, we must ensure that increasing demands on the fund should not be allowed to threaten its viability."³ I wholeheartedly agree. Consistent with Chairman Powell's statement, our recommended decision on this issue is an example of balancing legitimate concerns of our rural citizens with the goal of ensuring the long-term sustainability to the fund.

³ See Separate Statement of Chairman Michael K. Powell in Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, Memorandum Opinion and Order, CC Docket No. 96-45, FCC 03-338 (rel. January 22, 2004).