

**SEPARATE STATEMENT OF
COMMISSIONER KEVIN J. MARTIN
DISSENTING IN PART, CONCURRING IN PART**

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

I am troubled by today's Recommended Decision because it fails to provide sufficient guidance or a meaningful public interest test on the process for designating and funding eligible telecommunications carriers ("ETCs") that enter the market in high cost areas to serve rural consumers.

As I have stated in the past, I have concerns with policies that use universal service support as a means of creating "competition" in high cost areas.¹ In my view, the main goals of the universal service program are to ensure that all consumers--including those in high cost areas--have access at affordable rates. I remain hesitant to subsidize multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. The Joint Board's recommendations may continue to make it difficult for any one carrier to achieve the economies of scale necessary to serve all of the customers in rural areas.

I believe the Joint Board should have recommended more immediate steps that the Commission should take to reform the ETC designation process. For example, I would have preferred that the Joint Board recommend that the Commission require ETCs to provide the same type and quality of services throughout the same geographic service area as a condition of receiving universal service support. In my view, competitive ETCs seeking universal service support should have the same "carrier of last resort" obligations as incumbent service providers in order to receive universal service support. Adopting the same "carrier of last resort" obligation for all ETCs is fully consistent with the Commission's existing policy of competitive and technological neutrality amongst service providers.

As I have supported in the past, I would have recommended that the Commission require ETCs to provide equal access. Equal access provides a direct, tangible consumer benefit that allows individuals to decide which long distance plan, if any, is most appropriate for their needs. As I have stated previously, I believe an equal access requirement would allow ETCs to continue to offer bundled local and long distance service packages, while also empowering consumers with the ability to choose the best

¹ Separate Statement of Commissioner Kevin J. Martin, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Second Report and Order and Further Notice of Proposed Rulemaking*, CC Docket (No. 00-256)(rel. October, 11, 2002); Separate Statement of Commissioner Kevin J. Martin, *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 (Jan. 22, 2004).

calling plan for their needs.² An equal access obligation is also fully consistent with the Commission's existing policy of competitive neutrality amongst service providers, facilitating competition on the basis of price and service quality for comparable service offerings.

I would have also preferred that the Joint Board recommend that the Commission require ETCs to provide service throughout the same geographic service area in order to receive universal service support. This obligation would help guard against the potential for creamskimming. I would have supported a recommendation to deny future requests to redefine the service areas of incumbent rural telephone companies--and to deny ETC designations in instances where an ETC's proposed service area does not cover the entire service area of the incumbent service provider.

Given that a majority of my colleagues were unwilling to recommend that the Commission adopt these same competitively neutral obligations for all ETCs, I concur in the Joint Board's recommendation to seek alternative means of limiting fund growth. To help slow the growth of the universal service fund, I specifically support one particular alternative of the primary line proposal. My support for the primary line proposals is limited to that "hold harmless" proposal.

Under the "hold harmless" alternative, per line support available to competitive ETCs would freeze upon competitive entry. Competitive ETCs would only be eligible for universal service support for customers who designated their service as the primary line. Unlike the other primary line proposals, however, this alternative would not cap per-line support for incumbent carriers and would thus "hold harmless" incumbent carriers from the loss of universal service support. As my colleague Commissioner Rowe has observed, this proposal would work to address the incumbents overall network costs that are incurred.

I look forward to working with my colleagues on the Commission as we address these critical issues regarding the distribution of universal service support to ETCs in high cost areas while ensuring that we maintain and preserve universal service in rural America.

² Separate Statement of Commissioner Kevin J. Martin, *Federal-State Joint Board on Universal Service*, CC Docket No.96-45, (rel. July 10, 2002); Separate Statement of Commissioner Kevin J. Martin, *Federal-State Joint Board on Universal Service, FCC 03-170*, CC Docket No. 96-45, (rel. July 14, 2003).