

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

ORDER

Adopted: May 8, 2006

Released: May 16, 2006

By the Commission:

1. In this Order, we extend the high-cost universal service support rules adopted in the *Rural Task Force Order* on an interim basis until the Commission concludes its rural review proceeding and adopts changes, if any, to those rules as a result of that proceeding.¹ Based on the recommendations of the Rural Task Force and the Federal-State Joint Board on Universal Service (Joint Board),² the Commission adopted a modified embedded cost support mechanism for rural carriers for a five-year period beginning on July 1, 2001.³ Thus, the Commission intended that the Rural Task Force plan would remain in effect until June 30, 2006. At the same time, the Commission expected to complete a review, with Joint Board input, of the rules relating to the rural high-cost support mechanism before the end of the five-year period.

2. On June 28, 2004, the Commission asked the Joint Board to review the Commission's rules relating to high-cost support for rural carriers and to determine the appropriate rural mechanism to succeed the five-year plan adopted in the *Rural Task Force Order*.⁴ On August 16, 2004, the Commission released a Joint Board Public Notice seeking comment on the rural review issues referred to

¹ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourteenth Report and Order and Twenty-Second Order on Reconsideration, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Report and Order, 16 FCC Rcd 11244 (2001) (*Rural Task Force Order*); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 19 FCC Rcd 11538 (2004) (*Rural Review Referral Order*) (initiating rural review proceeding). The high-cost universal service support rules adopted in the *Rural Task Force Order* were modified in *Federal-State Joint Board on Universal Service, National Telephone Cooperative Association Petition for Reconsideration*, CC Docket No. 96-45, Order and Order on Reconsideration, 20 FCC Rcd 768 (2005) (*Rural Task Force Reconsideration Order*).

² Letter from William R. Gillis, Rural Task Force, to Magalie Roman Salas, FCC, dated September 29, 2000 (Rural Task Force Recommendation); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 16 FCC 6153 (2000). The Rural Task Force proposed a five-year plan and the Joint Board did not state a position on the overall duration of the plan. See *Rural Task Force Order*, 16 FCC Rcd at 11309, para. 166.

³ See *Rural Task Force Order*, 16 FCC Rcd at 11261, para. 37, 11309-10, paras. 167-68.

⁴ See *Rural Review Referral Order*, 19 FCC Rcd 11538, para. 1.

the Joint Board.⁵ On August 17, 2005, the Commission released another Joint Board Public Notice seeking comment on several proposals that state Joint Board members and staff had developed.⁶ The Joint Board has been diligently reviewing the record and considering what support mechanism should succeed the Rural Task Force plan. Nonetheless, we find that the Commission may not have adequate time after the Joint Board issues a recommended decision in the rural review proceeding to develop a record on that recommendation and to adopt any changes to our current rules prior to June 30, 2006.⁷ In light of the ongoing Joint Board review, the interim nature of these rules, and the need to ensure continuity pending further Commission action, we find good cause exists to extend the rural high-cost support rules adopted in the *Rural Task Force Order*.⁸ Accordingly, the rural high-cost support rules adopted in the *Rural Task Force Order*, as amended,⁹ will remain in effect after this date until the Commission adopts new high-cost support rules for rural carriers.

3. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1-4, 201-205, 214, 218-220, 254, 303(r), 403, 405, 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, 405, and 410, that this Order in CC Docket No. 96-45 and WC Docket No. 05-337 IS ADOPTED.

4. IT IS FURTHER ORDERED, that the extension of the high-cost universal service support rules applicable to rural carriers SHALL BE EFFECTIVE thirty days after publication in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁵ *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, 19 FCC Rcd 16083 (2004). Comments were due October 15, 2004, and reply comments were due December 14, 2004.

⁶ *Federal-State Joint Board on Universal Service Seeks Comment on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, 20 FCC 14267 (2005). Comments were due September 16, 2005, and reply comments were due October 3, 2005.

⁷ We note in this regard that the Commission recently appointed a new Joint Board Chair, Federal Communications Commissioner Deborah Taylor Tate, and two new state members, Chairman Lisa Polak Edgar of the Florida Public Service Commission, and Commissioner Larry S. Landis of the Indiana Utility Regulatory Commission. See *Federal-State Joint Board on Universal Service*, *Federal-State Joint Board on Jurisdictional Separations*, CC Docket Nos. 96-45, 80-286, Order FCC 06-3 (rel. Jan. 13, 2006); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 05-193 (rel. Nov. 9, 2005).

⁸ We find that the Commission also has authority to adopt interim rules without notice and comment when necessary. 5 U.S.C. § 553(b)(3)(B); see *Mid-Tex Elec. Coop., Inc. v. FERC*, 822 F.2d 1123 (D.C. Cir. 1987) (finding that FERC established good cause for adopting interim rule without notice and comment where there was notice and comment when the rule was originally adopted as a permanent rule, where the rule was interim in nature pending resolution of a new permanent policy, and where utilities had relied on the rule during the period between its promulgation and the time in which it was held invalid by the Court of Appeals).

⁹ For example, the "safety valve" support rules were modified on reconsideration. See *Rural Task Force Reconsideration Order*, 20 FCC Rcd 768 (2005).