In the Matter of

Federal-State Joint Board on Universal Service
High-Cost Universal Service Support

CC Docket No. 96-45
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. Based on the recommendations of the Rural Task Force and the Federal-State Joint Board on Universal Service (Joint Board), the Commission adopted a modified embedded cost support mechanism for rural carriers for a five-year period beginning on July 1, 2001. 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. On August 16, 2004, the Commission released a Joint Board Public Notice seeking comment on the rural review issues referred to

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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. 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. 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. 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. Accordingly, the rural high-cost support rules adopted in the Rural Task Force Order, as amended, 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


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. Cooper, 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).