



PUBLIC NOTICE

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FCC 07J-2

Released: May 1, 2007

FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE SEEKS COMMENT ON LONG TERM, COMPREHENSIVE HIGH-COST UNIVERSAL SERVICE REFORM

WC Docket No. 05-337

CC Docket No. 96-45

Comment Date: May 31, 2007

Reply Comment Date: July 2, 2007

1. In this Public Notice, the Federal-State Joint Board on Universal Service (Joint Board) seeks comment on various proposals to reform the high-cost universal service support mechanisms. In a companion *Recommended Decision* released today, the Joint Board recommends that the Commission take immediate action to rein in the explosive growth in high-cost universal service support disbursements by imposing an interim, emergency cap on the amount of high-cost support that competitive eligible telecommunications carriers (ETCs) may receive.¹ The Joint Board is committed to making further recommendations regarding long term, comprehensive high-cost universal service reform within six months. To assist the Joint Board in accomplishing this goal, we seek comment on several proposals that have been placed in the record since the close of the last comment cycle, as well as other possible reforms. The Joint Board expects parties to put forth detailed, comprehensive proposals within this comment cycle.

I. BACKGROUND

2. In 2002, the Commission asked the Joint Board to review, among other things, the Commission's rules relating to high-cost universal service support in study areas in which a competitive ETC is providing service.² In 2004, the Commission asked the Joint Board to review the Commission's rules relating to the high-cost universal service support mechanisms for rural carriers.³ The Joint Board

¹ *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, *Recommended Decision*, FCC 07J-1 (released May 1, 2007) (*Recommended Decision*).

² See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 FCC Rcd 22642 (2002) (*ETC/Portability Referral Order*).

³ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 19 FCC Rcd 11538, para. 1 (2004) (*Rural Referral Order*); see also *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, 11268-70 (2001) (*Rural Task Force*

received extensive comments from interested parties in three previous comment cycles, and will continue to consider the issues raised and the proposals set forth in those comments.⁴ Although the last comment cycle closed on November 8, 2006, several parties recently filed additional, specific, detailed proposals for reforming the high-cost universal service support mechanisms, as discussed below. On February 20, 2007, the Joint Board held an *en banc* hearing, and discussed high-cost universal service support reform, including the use of reverse auctions or geographic information systems (GIS) technology to determine support.⁵ Panelists representing a broad range of interests discussed their positions and responded to questions from Joint Board members.⁶ In addition to the proposals presented at the *en banc* hearing, the Joint Board subsequently received a number of proposals and comments in *ex parte* filings.⁷

II. ISSUES FOR FURTHER CONSIDERATION

3. As discussed in the companion *Recommended Decision*, the imposition of an interim cap on competitive ETC support represents only a temporary solution to the rapid growth of the high-cost fund and does not solve the problems that plague the high-cost support distribution mechanisms.⁸ The Joint Board is committed to making recommendations regarding comprehensive high-cost universal service reform within six months. To assist our efforts in crafting a recommendation for fundamental high-cost reform in a timely manner, we seek comment on the proposals recently filed in this proceeding, as well as other possible reform proposals. Specifically we seek comment on the following issues and proposals: 1) the use of reverse auctions to determine high-cost universal service support; 2) the use of GIS technology and network cost modeling to better calculate and target support at more granular levels; 3) disaggregation of support; 4) the methodology for calculating support for competitive ETCs; and 5) whether universal service funding should be used to promote broadband deployment.

4. *Reverse Auctions.* At the *en banc* hearing, Federal Communications Commission Chairman Kevin Martin explained in his opening remarks that “reverse auctions could provide a technologically and competitively neutral means of controlling fund growth and ensuring a move to most efficient technology over time.”⁹ On the first panel, representatives from Verizon and CTIA – The

Order); *Federal-State Joint Board on Universal Service; High-Cost Universal Service Support*, CC Docket No. 96-45, WC Docket No. 05-337, Order, 21 FCC Rcd 5514 (2006) (extending Rural Task Force plan).

⁴ See *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission’s Rules Relating to High-Cost Universal Service Support*, CC Docket No. 96-45, Public Notice, 19 FCC Rcd 16083 (2004); *Federal State Joint Board on Universal Service Seeks Comment on Proposals to Modify the Commission’s Rules Relating to High-Cost Universal Service Support*, CC Docket No. 96-45, Public Notice, 20 FCC Rcd 14267 (2005); *Federal-State Joint Board on Universal Service Seeks Comment on the Merits of Using Auctions to Determine High-Cost Universal Service Support*, WC Docket No. 05-337, Public Notice, 21 FCC Rcd 9292 (2006) (*August 2006 Public Notice*).

⁵ See *Federal-State Joint Board on Universal Service to Hold En Banc Hearing on High-Cost Universal Service Support in Areas Served by Rural Carriers*, WC Docket No. 05-337, Public Notice, 22 FCC Rcd 2545 (2007). Statements, slides and audio transcripts are available at http://www.fcc.gov/web/tapd/universal_service/JointBoard/welcome.html.

⁶ See *id.*

⁷ See *infra* notes 10, 11 and 14.

⁸ See *Recommended Decision*, FCC 07J-1, at para. 14.

⁹ See *supra* note 5.

Wireless Association presented specific auction proposals that previously had been filed in this proceeding.¹⁰ We seek comment on these specific proposals and a broadband auction proposal filed by Alltel.¹¹ We also invite commenters to file additional auction proposals that detail how such an auction would be designed, what would be the geographic scope of the area to be auctioned, how the reserve price would be set, what obligations, including carrier of last resort, would be imposed on the auction winner or (winners), how to ensure affordable and reasonably comparable rates, and other issues related to using reverse auctions to calculate and distribute high-cost support. We also seek comment on whether any auction proposal should include an affordability benchmark.

5. *GIS Technology and Network Cost Modeling.* On the second panel at the *en banc* hearing, a GIS expert presented a brief overview of GIS technology – the hardware, software, and methods that allow people to create, store, analyze and distribute spatial information.¹² In addition, an expert in network cost modeling described the significant advances in network modeling, such as utilizing road-based networks, that have occurred since the Commission adopted its cost model.¹³ Finally, a representative of Embarq discussed the importance of calculating support at the sub-wire center level.¹⁴ We seek comment on how GIS technology and/or network cost models could be used to more efficiently calculate and target support at more granular levels. Could these tools be used to identify those areas where competition and market forces alone will not result in the provision of services comparable to those available in more urban areas of the country, and thus where support might be most needed?

6. *Disaggregation of Support.* We seek comment on whether the Commission should require all carriers to disaggregate support below the study area, or wire center, level. Additionally, should all carriers receive support on a per line basis under a disaggregation plan? In the *Rural Task Force Order*, the Commission adopted three paths for the geographic disaggregation and targeting of rural high-cost support at or below the study area level, and provided a deadline for rural carriers to choose one of the paths.¹⁵ Disaggregation allows incumbent carriers to target explicit support to regions

¹⁰ See *id.*; Letter from Kathleen Grillo, Vice President Federal Regulatory, Verizon, to Deborah Taylor Tate, Federal Chair and Ray Baum, State Chair, Federal-State Joint Board on Universal Service (dated Feb. 9, 2007); CTIA Reply Comments, Appendix (Controlling Universal Service Funding and Promoting Competition Through Reverse Auctions, by James Stegeman, Dr. Steve Parsons, Robert Frieden, and Mike Wilson) (filed Nov. 8, 2006). CTIA's auction proposal was filed in response to the *August 2006 Public Notice*, but because it was filed with reply comments, there was no formal opportunity for other parties to respond. Accordingly, we specifically seek comment on CTIA's reverse auction proposal here.

¹¹ See Letter from Gene DeJordy, Vice President Regulatory Affairs, Steve R. Mowery, Vice President Public Policy, and Mark Rubin, Vice President Federal Government Affairs, Alltel, to Deborah Taylor Tate, Federal Chair, and Ray Baum, State Chair, Federal-State Joint Board on Universal Service (dated Feb. 16, 2007).

¹² See Presentation of David Bodenhamer, the Polis Center, Indiana University Purdue University Indianapolis, *supra* note 5.

¹³ See Presentation of Jim Stegeman, CostQuest Associates, *supra* note 5.

¹⁴ See Presentation of Brian Staihr, Embarq, *supra* note 5; see also Letter from Jeffrey S. Lanning, Director – Federal Regulatory, Embarq, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket No. 05-337 (filed Feb. 20, 2007) (attaching longer version of slide presentation).

¹⁵ See *Rural Task Force Order*, 16 FCC Rcd at 11302-09, paras. 144-64. Under Path One, a carrier could choose not to disaggregate. Under Path Two, a carrier has the option of disaggregating in accordance with a plan approved by the appropriate regulatory authority. Under Path Three, a carrier has the option of self-certifying to the appropriate regulatory authority a disaggregation plan of up to two cost zones per wire center that are reasonably related to the cost of providing service within each zone. See 47 C.F.R. § 54.315(b)-(d). When the Commission

within a study area that cost relatively more to serve, ensuring that a competitive entrant receives the targeted support only if it also serves the high-cost region.¹⁶ At the same time, it prevents the competitive entrant from receiving greater support than needed to serve relatively low-cost regions, which, if permitted, would give the competitive carrier a potential price advantage over the incumbent.¹⁷ The overwhelming majority of rural telephone companies chose not to disaggregate support under Path One.¹⁸ We seek comment on whether the Commission should provide rural carriers with another opportunity to disaggregate support below the study area or wire center level under Paths Two or Three.¹⁹ Should the Commission require rural carriers to disaggregate under Paths Two or Three and eliminate the option not to disaggregate under Path One?

7. Competitive ETC Support. In the companion *Recommended Decision*, we recommend that the Commission consider abandoning or modifying the so-called identical support or portability rule.²⁰ In the *Universal Service First Report and Order*, the Commission determined that it was appropriate to calculate per-line portable universal service support for competitive ETCs based on the support that the incumbent LEC would receive for the same line (the identical support rule).²¹ We seek comment on whether the Commission should replace the current identical support rule with a requirement that competitive ETCs demonstrate their own costs in order to receive support. In light of the uncontrolled growth in competitive ETC support in recent years, we also seek comment on how we should view the funding of multiple carriers in high-cost areas. Do we need to recommend additional principles under section 254(b)(7) of the Act to govern where multiple ETCs should receive support? We also seek comment on whether modification of the identical support rule or adoption of additional principles that could limit the number of ETCs in high-cost areas would be consistent with the principle of competitive neutrality.

8. Broadband. Section 254 of the Act defines universal service as “an evolving level of telecommunications services.”²² We seek comment on whether the Joint Board and the Commission

established the interstate common line support (ICLS) mechanism in the *MAG Order*, it determined that rate-of-return carriers should have the option of choosing one of the three paths for ICLS as well, and extended the deadline until May 15, 2002. *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers in CC Docket No. 00-256, Federal-State Joint Board on Universal Service in CC Docket No. 96-45, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation in CC Docket No. 98-77, Prescribing the Authorized Rate of Return From Interstate Services of Local Exchange Carriers in CC Docket No. 98-166, Second Report and Order and Further Notice of Proposed Rulemaking, Fifteenth Report and Order, and Report and Order, 16 FCC Rcd 19613, 19674-78, paras. 143-150 (2001) (MAG Order), recon. pending; 47 C.F.R. § 54.315(a).*

¹⁶ See *MAG Order*, 16 FCC Rcd at 19674, para. 144.

¹⁷ *Id.*

¹⁸ See 47 C.F.R. § 54.315(b).

¹⁹ See 47 C.F.R. § 54.315(c)-(d).

²⁰ *Recommended Decision*, FCC 07J-1, at para. 12.

²¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8932-34, 8944-45 (1997) (*Universal Service First Report and Order*) (subsequent history omitted); see also 47 C.F.R. § 54.307(a)(1).

²² 47 U.S.C. § 254(c).

should consider adding broadband to the list of supported services, and whether there are statutory impediments to doing so. We also seek comment on the impact of adding broadband support on the size of the fund, and whether broadband should be a separately identified category of support apart from other high-cost support. Additionally, if support is provided for broadband, should that support be targeted to areas where there is no broadband deployment to date. We also seek comment on whether the Commission should consider a pilot program to promote broadband deployment. A pilot program would give the Commission and the Joint Board an opportunity to evaluate potential program designs without committing to a single design that may not ultimately be effective. As discussed above, Alltel filed a proposal to use a reverse auction pilot program to speed broadband deployment to areas of the country where there is no broadband available today.²³ We seek comment on this and other broadband pilot programs.

III. PROCEDURAL MATTERS

9. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. **Comments should be filed in WC Docket No. 05-337 only.** Comments may be filed using either the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.²⁴

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>. Filers should follow the instructions provided on the website for submitting comments.
 - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All

²³ See *supra* para. 4 and note 11.

²⁴ See *Electronic Filing of Documents in Rulemaking Proceedings*, CC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

10. In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; website: www.bcpweb.com; phone: 1-800-378-3160;
- (2) Antoinette Stevens, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B540, Washington, D.C. 20554; e-mail: Antoinette.Stevens@fcc.gov.

For further information regarding this proceeding, contact Nicholas Alexander, Office of Commissioner Tate, at 202-418-2500, Jeremy Marcus, Wireline Competition Bureau, at 202-418-7400, or Jennifer Richardson, Indiana Utility Regulatory Commission, at 317-232-2785.