STATEMENT OF
COMMISSIONER RAY BAUM
APPROVED/CONCUR IN PART

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

I support the Recommended Decision (RD) of the Federal-State Joint Board on Universal Service. Its provisions contain fundamental forward-looking reforms that deserve the FCC's serious consideration. The RD proposes significant changes to the High Cost Fund component of the Universal Service Fund (USF). It does so by clearly directing funds to truly high cost and unserved areas, by expanding and redefining the scope of supported services to explicitly recognize mobility and broadband, and by increasing accountability to better benefit the consumers who pay to support the fund.

The RD recommends the FCC change the basic paradigm of High Cost support by creating three distinct categories of High Cost funding. This approach appropriately recognizes key distinctions between traditional wireline telephone services (the Provider of Last Resort or POLR Fund), wireless mobility services (the Mobility Fund), and high speed Internet access (the Broadband Fund). I am convinced that the best course is to make these distinctions explicit rather than continue to muddle support for each within traditional High Cost funding. This is particularly important for reforming wireless CETC support. Moving wireless CETC funding into a new Mobility Fund responds effectively to the concern that current High Cost support to wireless CETCs primarily subsidizes competition where competition already exists. The new Mobility Fund targets support toward the task of building infrastructure to bring wireless service to the unserved areas of rural America. As wireless build-out is completed across the country, the Mobility Fund should decrease in size over time.

The RD jump starts deployment of broadband to unserved areas by recommending the FCC establish a new Broadband Fund. All states would be eligible for a base allocation of funds. Supplemental allocations would match state efforts similar to Connect/Kentucky. This, along with the other recommendations in the RD, help ensure that monies are used effectively and efficiently. The Joint Board debated whether to use "unserved" or "under-served" to describe the areas to be targeted for infrastructure build-outs under the Broadband Fund, and under the Mobility Fund as well. In my mind, this discussion is largely over semantics. What constitutes a qualified area should be left to the individual states to decide on a case by case basis, within FCC guidelines. The key point here is that states will make these decisions within their fixed dollar allocations. Leave it to each state to decide whether it is a priority to spend some broadband dollars on areas where service is available, but not reliable. The state may have very important public safety reasons for doing so. That decision will neither burden the Broadband Fund nationally nor reduce funding to any other state.

The new Broadband Fund will greatly accelerate broadband access in rural areas served by the non-rural incumbent local exchange carriers (non-rural ILECs). The new fund will also assist rural ILECs (RLECs) who are caught in the "parent trap" when purchasing service areas from non-rural ILECs. The idea is to direct funds to those portions of the country where broadband deployment is lagging, and where Rural Utility Service (RUS) loans and other types of support are not available. The RD points out that current High Cost support mechanisms have allowed RLECs to more effectively deploy broadband to their consumers. RLEC access to low-interest RUS loans helps to fill any gaps.

As for overall funding, I support the recommendation to cap High Cost funding at $4.5 billion for the near term. The RD appropriately exempts from the cap any additional funding that may be required when the FCC implements changes to comport with the 10th Circuit decision regarding the non-rural mechanism. The RD supports capping the CETC side of the fund at $1.0 billion based on year-end 2006. However, we need to acknowledge that a $1.0 billion cap on CETCs is unlikely to happen, since the FCC appears to be moving toward a somewhat higher cap amount based on fund numbers at the end of June

2007. This June date is consistent with the FCC's approval of the Alltel transaction terms. As a result, the CETC cap is more likely to be in the neighborhood of $1.15 billion.

While I support an overall cap on High Cost funding, I have practical concerns about capping the ILEC portion of the fund. First, capping the separate funds within the ILEC portion as recommended in the RD seems unnecessary. The ILEC side of the High Cost Fund is not growing and is not expected to do so in the near future. Second, I anticipate the ILEC portion of the fund will be subject to some adjustment during the next five years as a consequence of intercarrier compensation reform. The RD should have taken this into account.

In addition to these practical concerns, the RD did not meet my expectations when it failed to address some basic inequities in how High Cost support is distributed among non-rural ILECs and among the states. Inequitable distribution of support to states has been compounded by the equal support rule for CETCs. The exponential growth in the CETC portion of the fund over the last 6 years has gone to states where per line reimbursements to ILECs are the highest and where the politics are the most favorable. As a result, by the end of 2006, the top 10 states, exclusive of the insular jurisdictions of Alaska and Puerto Rico, received almost 45%, or over $450 million, of the $1 billion CETC support. Other similarly situated rural states received less than 10% of that amount. Mississippi ($140m), Kansas ($55m), Wisconsin ($51m), and Washington ($44m) lead the way with $290 million. Idaho ($0), Missouri ($.1m), Utah ($.3m) and Tennessee ($1.5m) received the least with $1.9 million. It is clear that the current distribution system is broken.

The current FCC rules have resulted in a vast misallocation of public dollars to the benefit of only a small portion of rural consumers, and to the detriment of the rest. The RD missed an opportunity to partially correct this misallocation when it failed to recommend replacing current support calculations based on statewide averages with calculations at the wire center level. Statewide averaging relies on implicit subsidization of rural rates by urban consumers. This kind of subsidy is not sustainable in an increasingly competitive environment. A change to a wire center basis for calculation of support would have targeted support where it is needed on a more granular basis. This could have been accomplished without increasing the size of the fund simply by reallocating existing support.

Again, I support an overall cap on the High Cost Fund of $4.5 billion, including the new Broadband Fund. The Joint Board discussed funding the Broadband Fund at $300 million dollars within the $4.5 million cap. This $300 million dollar figure was originally projected to be available from the savings gained by capping the CETC portion of the fund at the 2006 year-end level (i.e., $1 billion) as set forth in the Joint Board's original CETC cap recommendation in May of this year.

However, it now appears likely that the FCC will adopt a cap on CETC funding based on levels at the end of June 2007. This would eliminate about $150 million, or half the savings, that would otherwise have been available for the Broadband Fund under our proposal. If the current collection rate is maintained through the end of 2008, probably the earliest date the fund could be implemented, the remaining $150 million needed to fully support the Broadband Fund at $300 million would be available under the $4.5 million cap by the end of 2008. In subsequent years, broadband funding could be supplemented by as much as $150 million per year, subject to the cap and within the current surcharge. By the end of 2009, approximately $450 million could be accumulated and available for broadband deployment. At that point the FCC should review the collection mechanism to determine whether additional funding is needed. As broadband build-out is completed across the country, the Broadband Fund should decrease in size over time.

Finally, the RD leaves several details of the implementation of its fundamental reform concepts to the FCC for further clarification. This is entirely appropriate. At a policy level the RD recommends major changes by designating two new qualifying services, creating two new funds, imposing caps on the respective fund(s) and fundamentally reforming how at least 29% of the current fund is distributed. I urge the FCC to put the RD out for comment as soon as possible with the goal of instituting the recommended reforms by June of 2008.