

HB

23

Alaska Telephone Association

201 E. 56th Avenue / Suite 230
Anchorage, Alaska 99518
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*Mark
Hold for
Action*

W. D. Pyron
President

Ted Lehne
Executive Director

14 December 1987

Senator Tim Kelly, Chairman
Senate Labor & Commerce Committee
PO Box 21-0001
Anchorage, AK 99521

Dear Senator Kelly:

Thank you for spending time with Sharon Macklin and me on November 18 to discuss CSHB 23 on reduced rates and discounted service for low income telecommunications customers.

At that meeting you expressed concern that telephone companies would use adoption of the bill as a method of offering discounted service to low income customers who do not really need it, and suggested we offer an amendment. I have attached a copy of the bill and suggest that the words "who qualify for federal or state administered means-test social services assistance programs." be added in each of the appropriate places.

These qualifying words first preclude local, or Native corporation designed social service programs. Second they limit to means-test programs. Third they specify social service assistance programs.

The alternative to this is to list qualifying programs, such as SSI, AFDC, food stamps, etc. But in a diverse state like Alaska this could broaden the program. For example, I have attached a copy of the ordinance adopted by the City of Fairbanks City Council which established their program. They are not economically regulated by the APUC.

Their program offers assistance to those receiving SSI and AFDC. If the state statute included food stamps, it would be difficult for that community to exclude food stamp recipients. By the general language I have proposed, public utilities are free to limit the program in their area, if that is what they desire.

I have also enclosed the latest bulletin from the FCC and consumer groups on Lifeline service and the new "Link Up America."

As we explained, this new program is a substantial national effort, paid for out of a pool of money from long distance calls. A very small percentage of each long distance call goes into this pool, whether the state participates in the Link Up program or not.

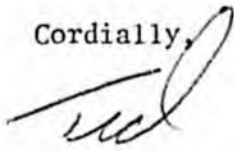
It is unlikely there will be much interest in this program in the rural villages since people can summon aid without a phone, and costs are already high. The real benefit will be in areas surrounding major communities where people often live some distance from their neighbor and need the phone to summon help in an emergency.

Since the affect of implementing such a program is to provide incremental income to local companies, it is unlikely to result in rate increases. I have seen no evidence from other states that have implemented these discounted programs that they have caused rate increases for other customers.

We would not be in favor of a bill that would mandate companies to offer reduced rate services. But we do believe in local option, and therefore support the legislation offered by the House Special Committee on Telecommunications.

If we can provide you with additional information, please let me know. It was good to see you again. Best wishes for the holidays.

Cordially,

A handwritten signature in dark ink, appearing to read 'Ted', with a large, sweeping loop extending upwards and to the right.

Ted Lehne
Executive Director

cc: Sharon Macklin
Rep. Red Boucher

Introduced by: Deputy City Manager -
Utilities
First Reading: April 6, 1987

ORDINANCE NO. 4625, As Amended

AN ORDINANCE TO AMEND FGC 12.119.1.4,
LIFELINE TELEPHONE SERVICE, BY DELETING
THE RESTRICTION ON LIFELINE TELEPHONE
CUSTOMERS LOCAL CALLS; AND SETTING AN
EFFECTIVE DATE.

WHEREAS, Ordinance No. 4457 was adopted August 5, 1985, and
enacted FGC 12.119.1.3, Lifeline telephone service; and

WHEREAS, Section 2 of this ordinance states that it would
become effective as soon as the general manager certified that he had
the equipment to implement such service; and

WHEREAS, it was anticipated that the new digital switch
would make it easy to limit individual customers to making calls to a
limited number of preselected local numbers; however, this can be done
only by tying up a substantial capacity of the switch and at
considerable effort; and

WHEREAS, there are approximately 400 recipients of SSI in
the Fairbanks area and it is desired that this service be provided to
them without restrictions on the local calls they may make; and

WHEREAS, there are approximately 260 households who qualify
for aid to families with dependent children, and it is also desired
that this service be provided to them.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE
CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. That FGC Chapter 12, Utilities, Article I, General Provisions; Rates, Sec. 12.119.1.4, Lifeline telephone service, be amended as follows:

Sec. 12.119.1.4. Lifeline telephone service.

(a) Telephone customers who furnish verification from the Social Security Administration that they are recipients of supplemental security income (SSI) or who furnish verification from the Alaska Department of Health and Social Services that they are recipients of payments for Aid to Families with Dependent Children (AFDC) are entitled to a lifeline telephone rate.

(b) The lifeline telephone rate will be one-half (1/2) the regular residential telephone tariff rate for basic telephone service. Lifeline customers will pay the same charges as others for all other services, including but not limited to installation, repair, toll calls, etc.

[(C) LIFELINE TELEPHONE CUSTOMERS WILL BE LIMITED TO MAKING OUTGOING CALLS TO FIVE (5) PRESELECTED LOCAL NUMBERS, ONE (1) OF WHICH SHALL BE THE EMERGENCY NUMBER AND FOUR (4) ADDITIONAL LOCAL NUMBERS THEY MAY SELECT, AND MAY RECEIVE UNLIMITED INCOMING CALLS.]

(c) [[D]] Applicants for lifeline service must furnish verification from the Social Security Administration that they are receiving supplemental security income (SSI) or the Alaska Department of Health and Social Services of payments for Aid to Families with Dependent Children (AFDC). Once a year they [AND] must furnish reverification from the Social Security Administration that they continue to receive SSI or from the Alaska Department of Health and Social Services that they continue to receive payments for AFDC [ONCE A YEAR]. The burden will be upon the applicant to secure such verification. Twelve (12) months after the last verification, the applicant will be charged the full regular telephone rate unless and until such verification is furnished to FMUS.

(d) [[E]] Applicants will be limited to those people receiving supplemental security income (SSI) or AFDC who are heads of household in which they reside. Recipients of supplemental security income (SSI) or AFDC who reside in a

household with adults (other than a spouse) who are not entitled to SSI or AFDC are not eligible for lifeline telephone service.

SECTION 2. That the effective date of this ordinance shall be the 9th day of May, 1987.

BILL WALLEY, Mayor

ADOPTED:

ATTEST:

CARMA B. ROBERSON, City Clerk

LIFELINE TELEPHONE SERVICE

The City of Fairbanks dba Municipal Utilities System, has passed an amended Ordinance 4457 effective April 25, 1987.

The purpose of the amendment is to allow persons receiving Supplemental Security Income (SSI) or aid to Families with Dependant Children (FDC), the availability of telephone service at a reduced basic rate.

REQUIREMENTS FOR LTS:

Verification from the Social Security Administration or the Public Assistance Office of eligibility will be furnished to FMUS by the customer. The customer must immediately notify FMUS if the customer is later determined not eligible for either of these programs.

1. Applicants will be limited to those people who are heads of household in which they primarily reside.
2. The lifeline telephone rate will be one-half (1/2) the regular residential telephone rate for basic telephone service. Lifeline customers will pay the same charges as others for all other services, including but not limited to installation, repair, toll calls, etc.
3. The applicant will have the standard denied toll calling in conjunction with the reduced rate and deposit.
4. If the applicant chooses the option of unrestricted long distance calling, the applicant will be required to pay the full deposit charge.
5. The applicant is responsible for furnishing verification, and reverification every 12 months from the agency that qualified the applicant for Lifeline Telephone Services.
6. On the billing cycle that includes the anniversary date of the customers Lifeline Telephone Service, the customer will be charged the full rate unless verification has been furnished.

FOR INFORMATION CALL 456-1010.

lifeline/bjr/a



Quarterly

Update

Vol. 1, No. 1

• A Telephone Service Assistance Program

• December, 1987

Link Up America Begins Providing Telephone Service Assistance to Low Income Americans

Link Up America is a new telephone service assistance program directed to low income households currently without telephones. The program is sponsored by the Federal Communications Commission in cooperation with the United States Telephone Association, the Consumer Federation of America, and state regulators.

The Link Up America program was initiated to address the specific concern that not all Americans can afford the connection and installation charges required to obtain access to the telephone network.

Recommended by the Federal-State Joint Board, the program was adopted by the FCC on April 16, 1987. Link Up America was officially introduced at a teleconference on October 6, 1987 in Washington, D.C. (see separate article).

To qualify for Link Up America services, an individual:

- Must not have had telephone service in his or her home for the last three months;
- Is not claimed as a dependent for federal income tax purposes, unless the person is over 60 years old;
- Has not received telephone connection assistance within the last two years; and
- Meets local income and eligibility requirements determined by each state.

Link Up America is designed

as a national consumer education and outreach program. Therefore, its success on the state and local level requires the cooperative efforts of local telephone companies, consumer and community organizations, and state regulators and legislators. Together, these groups are organizing local coalitions to reach the program's target audiences.

Because of the make-up of the target audience, many of whom cannot be reached through conventional channels of mass communication, much of the Link Up effort will focus on working with people on the local level on a one-on-one basis. Outreach efforts also include written materials and radio and television public service announcements.

Local organizers, supported by the national sponsors, are developing state-specific plans to ensure grass roots success.

Pilot programs have been established in Arkansas, the District of Columbia, Texas and West Virginia (see separate reports). These pilot programs do not, however, preclude any state or telephone company outside the study areas from offering Link Up America assistance now. In fact, eleven additional states have already received FCC certification.

As part of the initial outreach effort, support materials written and developed in Washington, D.C., have been made available to the Link Up coalitions in the pilot areas. Community organ-

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Luverne McClinton, secretary of the St. Francis Housing Authority (Forrest City, Arkansas), explains the Link Up America program to Carol Bishop.

An Open Letter from the FCC

On behalf of the Federal Communications Commission, I applaud the efforts of all those involved in implementing the Link Up America telephone service assistance program. A great deal of work has been accomplished since the program's kick off on October 6th. People are involved, and most importantly, our commitment to universal service has been reaffirmed, as we strive to provide telephone service to those low income households currently not on the telephone network.

The main objective of this program is to make telephone service more affordable for low income individuals presently without phones. To achieve this goal, Link Up America will pay for one half of the installation and connection charges, or an amount up to \$30. In addition, telephone companies are encouraged to offer interest-free deferred payment schedules on the remaining balance, and where appropriate, to reduce or waive any deposit that may be required.

We estimate the number of low income households that are potentially eligible for Link Up America services to be approxi-



Dennis Patrick

mately five million nationwide. In general, those individuals who do not have telephone service and qualify for social services assistance programs are eligible for the Link Up America program.

In an effort to test implementation and communication methodologies, pilot programs have been established in Arkansas, the District of Columbia, Texas and West Virginia. Link Up America coordinators in these areas have brought together coalitions of local telephone companies, state regulators and legislators, civic organizations, and consumer and religious groups to pool their

resources and outreach efforts in order to contact the program's target audience. The level of involvement and commitment in this regard has been overwhelming, as you will see in this quarterly report.

Link Up America supporters have been distributing flyers, tacking up posters, preparing mass mailings, and manning information hotlines in a grass roots effort to spread the word about the program's availability. Those out in the field are relying on or 2-on-one contact to inform the low income households of the program.

These pilot programs are good examples of what can be accomplished when government, industry, and citizen groups work together.

Including the pilot programs, 14 states and the District of Columbia have now adopted Link Up America, and it is anticipated that by year-end, many more will have joined in the national campaign. To date, the states that have been certified include: Alabama, Arkansas, Colorado, Connecticut, Maine, Maryland, Montana, New Jersey, New York, North Carolina, Ohio, Rhode Island, Texas and West Virginia.

To ensure the continued success of the Link Up America program, ongoing commitment to our grass roots efforts is essential. I call upon everyone involved with this program to carry on—to maintain the current momentum—to make certain that all eligible Americans are given the opportunity to "link up" to the telecommunications network.

A handwritten signature in cursive script that reads "Dennis R. Patrick".

Dennis Patrick
Chairman, FCC

Link Up Begins

Continued from Page 1

izers are encouraged to tailor the information materials to fit their specific needs.

During the first six months of implementation, the activities in these pilot areas are being monitored monthly. The Link Up coalitions will provide written reports on the progress of their programs.

At the end of the six months, the program will be rolled out nationwide and monitored on a

quarterly basis. A summary of the pilot areas' data will be distributed to assist other states in implementing their own program.

Local coalition efforts in the pilot areas have been promising. The word is getting out, and low income Americans are being connected to the telephone network.

Link Up America will offer eligible Americans the opportunity to participate in and enjoy the benefits of the information age—through the telephone.

Teleconference Oct. 6 Kicks Off New Telephone Assistance Program

The Link Up America program was officially kicked off at a teleconference held in Washington, D.C. on October 6. In attendance were representatives from the federal, legislative and regulatory arenas, as well as telephone industry and consumer representatives. Collectively and individually, all endorsed and voiced their support for this new telephone service assistance program.

The Link Up America program will only be as successful as the organizations that support it. As evidenced by the statements made at the teleconference, the program received a most promising send off.

In introducing the program, Federal Communications Commission Chairman Dennis Patrick stated, "The kick off of 'Link Up America' begins a major effort by the FCC, state and local officials,



Speakers at the Link Up America kick off Oct. 6 (left to right): Marion Barry, Edward Burke, Virginia Knauer, John Sodolski (speaking), Dennis Patrick (behind podium), Mickey Leland, Phillip Campbell, Edward Whitacre, and Stephen Brobeck.

telephone companies, and consumer groups to reach low-income individuals currently without telephone service, and to connect them to our telecommunications network."

Representing the local telephone industry, John Sodolski, president of the United States Telephone Association em-

phasized, "The industry is committed to this program and is ready to face the challenges it presents head-on."

In addition to Sodolski, telephone companies in the pilot program areas were represented by Phil Campbell, president of Bell Atlantic and Ed Whitacre, vice chairman and chief financial officer of Southwestern Bell.

"On behalf of the Bell Atlantic companies, we are fully committed to the program from top to bottom," said Campbell. "You may be sure we will do everything we can see to it that its benefits are made available to everyone qualified to receive them."

Said Whitacre, "We look forward to the challenge of reaching out to the potential Link Up subscribers in our service areas...I am confident Southwestern Bell has the kind of people who—along with state officials, local consumer representatives, and independent telephone companies—will produce an implementation plan the rest of the country can follow."

To lend support from the consumer sector were Steve Brobeck, executive director of the Consumer Federation of America and Virginia Knauer, special adviser

Congressional Involvement Growing In Link Up Program

In support of Link Up America, members of Congress are being asked to appear in 30 second public service announcements (PSAs). Through these spots, congressmen can inform their constituents, who may be eligible for the program, how to procure Link Up services in their area.

Congressmen are also being asked to distribute Link Up America brochures through their Washington or district offices.

The PSAs, to be broadcast on local television stations, will be accompanied by returnable monitoring cards in order to record the number of times the spots are shown. The goal of the Congressional PSA portion of Link Up America is to have all congressmen produce a PSA for viewing in his/her local area.

Members who have completed PSAs for the pilot sites—Arkansas, Texas, West Virginia, and the District of Columbia—include:

Rep. Joe Barton (R-TX)
Rep. Mickey Leland (D-TX)
Rep. Alan Mollohan (D-WV)
Rep. Nick Joe Rahall (D-WV)
Sen. Jay Rockefeller (D-WV)
Rep. Tommy Robinson (D-AR)
Rep. Harley Staggers (D-WV)
Rep. Bob Wise (D-WV)

The remaining congressmen in the pilot areas have been contacted and are in the process of scheduling time to record their PSA.

The Congressional PSA Program is a vital element of Link Up America's grass roots efforts to get the word out to eligible Link Up subscribers.

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Arkansas



"Link Up Arkansas" volunteers gather on the steps of the Pulaski County Courthouse for instructions before delivering Link Up materials.

Teleconference

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to the President of the United States for Consumer Affairs.

Brobeck emphasized the importance of face-to-face communication by coalitions made up of community leaders and social service workers. Knauer gave the endorsement of the White House to the Link Up program, and also encouraged the establishment of local coalitions.

Speaking on behalf of the state of Texas (one of the four pilot areas) while also stressing the involvement of congressmen in the program, was Rep. Mickey Leland (D-TX). "I am pleased to see that 'Link Up America' will be a cooperative effort—involving consumer and community organizations, state and federal legislators and regulators, and the local telephone industry."

Ed Burke, chairman of the Rhode Island Public Utilities Commission and member of the Federal-State Joint Board stated that, while this is a national program, the key to its success rests on the involvement put

forth at the state level.

Presenting a local perspective was Marion Barry, Mayor of Washington, D.C. (also one of four pilot areas). Barry felt it was appropriate the Link Up America program would begin, in part, in the nation's capital.

Speaking via satellite from two of the other pilot areas were Arch Moore, Governor of West Virginia, and Bill Clinton, Governor of Arkansas. As with Washington, D.C., television, print and radio reporters were able to participate in a live question and answer period through the satellite hookup.

The enthusiasm and commitment demonstrated at the teleconference have grown and become more concrete as the program continues to roll out. The list of participating organizations is increasing almost daily (see back page). With organizations like these forming the backbone of the program, there is every indication Link Up America will be successful in hooking up many eligible Americans who currently are without telephone service.

Link Up information "blitz" spans 75 counties.

Arkansas' Link Up America effort got underway on Saturday, October 31, with a flourish and a considerable amount of hard work. Volunteers went on a 75-county "blitz" spreading the word on Link Up America—everywhere from government offices to laundromats.

In Pulaski County, the most populous in the state and also the site of the capital city, workers attended a rally on the courthouse steps before distributing the materials.

As final instructions were given, posters and brochures were divvied up among the volunteer groups as local reporters and photographers looked on. Because of all the red markers that began appearing on the large highway maps as workers plotted their distribution points, one amused spectator asked, "Are these guys planning a revolution or something?"

About 400 volunteers drove nearly 8,000 miles throughout the state during the weekend, to get the materials into place at 1,500 locations.

Most telephone company business offices and government agencies had already received their supplies in the mail. In all, more than 3,000 posters and 50,000 brochures were in place on November 2, the official starting date for "Link Up Arkansas."

Volunteers from telephone companies (many of them members of community relations teams), the Arkansas Telephone Association and human services agencies, worked with community organizations such as the Arkansas Community Organizations for Reform Now (ACORN), senior citizens' groups, the NAACP, church groups and ministerial alliances.

Continued on Next Page

Arkansas

These groups worked together, driving to grocery stores, banks, restaurants, churches, community centers and other locations selected as delivery sites by county coordinators. City and county officials, nutritionists, social workers and members of local economic development groups also assisted.

Apparently, they had chosen their locations well. Calls began in earnest at telephone company business offices all over the state the following Monday. One east Arkansas business office had to stay open until 8:00 p.m. the first night to handle all the Link Up America telephone calls.

Many people simply were curious about the program, but an encouraging number turned out to be eligible for assistance.

By the end of the first two weeks (November 13), eight telephone companies had reported to the Arkansas Telephone Association a total of 2,357 business office inquiries with 494 customers undertaking the certification process.

Southwestern Bell, the state's largest single telephone company, had received 2,000 inquiries, 800 of those were sent certification cards.

News coverage of the operation was favorable and widespread. County coordinators tracked more than 70 newspaper articles and radio and television reports about the Link Up effort so far. Radio stations have also begun using public service announcements.

In the words of one volunteer, "If this doesn't work, it sure won't be from lack of effort."

"Link Up Arkansas" is officially sponsored by a coalition made up of the Arkansas Telephone Association, ACORN and the state Attorney General's Office. Although not formally a part of

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Texas

Thirty-seven consumer and social service organizations meet to discuss Link Up efforts.

The largest telephone company in Texas, Southwestern Bell officially launched its Link Up America program with an Information Coalition session on November 13 in Austin. Thirty-seven state consumer and social service organizations met to map out implementation strategies for Link Up America in Texas. Their program went into effect on November 15.



William Free (left), vice president-revenues and public affairs for Southwestern Bell and Dennis Thomas (right), chairman of the Texas Public Utility Commission address local specifics during the Link Up America press conference.

An estimated 233,500 households, or nearly four percent of all Texas households, do not have telephone service. The attendees shared their ideas on how to reach the 180,000 of those low-income persons without telephone service who reside in Southwestern Bell territory. A seven-minute video outlining the Link Up America program was shown, and each participant received a packet of material to be used in his or her outreach efforts.

The groups that form the Texas Link Up America program include: Texas' Department of Human Services, Agricultural Extension Service, the Employment

Commission, the Department on Aging, the United Way of Texas, the Texas Senior Citizens Association, the Gray Panthers, the Coalition of Texans with Disabilities, and the Governor's Committee for Disabled Persons.

The following are some of the points that were discussed in the meeting:

- The American Association of Retired Persons (AARP) will begin a program to collect old phones from fellow Texans, as well as encourage their local chapters to raise money to buy phones to donate. In addition, each AARP member will be asked to identify five to ten people who may be in need of Link Up assistance.

- The Texas Department on Aging will educate their members about the availability of Link Up services through the department's publications, as well as work with the Texas Association for Information Referral's 927 senior citizen and nutrition centers.

Participants in other programs will also be called upon to spread the word about Link Up America, including providers of home delivered meals and meter readers, who participate in the gatekeeper program.

- The Texas Department of Human Services will provide Link Up America bill inserts to recipients of Aid to Families with Dependent Children (AFDC) and Food Stamps. A Link Up America presentation will be made at the Department's next board meeting, and an information letter on the program will be sent to all Department of Human Services staff in the 350 local offices throughout the state.

- The United Way of Texas indicated they would be putting Link Up America information in their newsletter. Bill Link, executive

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Washington, D.C.

D.C. program to work through community and civic organizations.

In the District of Columbia, C&P Telephone Company and Bell Atlantic have embarked on an aggressive program to reach potential Link Up America subscribers. The D.C. program is focusing on working through local community and civic organizations.

C&P Telephone Company has six community relations teams that have distributed approximately 10,000 brochures, 5,000 fact sheets and 50 posters throughout Washington, D.C. In addition, bill inserts were mailed to all 400,000 C&P customers in the District.

Efforts to reach low income households in the District can be attributed to an active coalition, formed to assist and enhance C&P's outreach program. Members of the District of Columbia's Link Up America coalition include representatives from the Public Service Commission, Office of the People's Counsel, the D.C. Energy Office, the American Association of Retired Persons, the D.C. Office of Consumer and Regulatory Affairs, the Gordon Adult Education Center, the Center City Community Corporation and the D.C. State Council of Senior Citizens.

As a member of the coalition, the D.C. Energy Office has

already begun to identify qualified applicants by furnishing updated lists to the C&P business office once a week. Letters are then sent to these potential subscribers, notifying them they qualify for Link Up services.

Members of the coalition have also visited several lunch sites at churches and apartment complexes in conjunction with the Urban League Lunch Program. Brochures, fact sheets and posters were distributed and a question and answer period followed. Similar visits are planned at least three times a month.

Also, a C&P speakers bureau has scheduled Link Up America presentations at six churches and homes for the elderly.

The coalition has also identified a large Spanish population in the District that would qualify for Link Up America services. Brochures, fact sheets and posters have been translated into Spanish for distribution.

In addition to the activities mentioned above, C&P has identified many avenues that will be pursued in the near future to reach as many low income households as possible.

C&P is considering reviewing its own records of accounts that have been disconnected for at least three months for reasons such as "non-payment" and "cannot afford," to identify candidates. The company may also

review their records of recent new connect applications that were not installed because advance payments or deposits were not paid.

C&P is also considering distribution of information through the Urban League's Low Cost Meal Program and the similar "Meals on Wheels" program. Both deliver food to the needy throughout the city.

Cross checking the customers of D.C. Natural Gas, Pepco, and the water service with C&P records to identify households without telephones will also be looked into. Once the list is compiled, an effective means of marketing Link Up America to these people will be developed. C&P will also consider a mailing or visitation program to reach all citizens who qualify for energy assistance, and are shown as having no telephone service.

Other organizations to be contacted for assistance are: the United Way, the D.C. Unemployment Agency, the Advisory Neighborhood Commissioners and District of Columbia Council Members.

Information for this article was provided by Veronica R. Brown, staff manager for C&P Telephone.

Link Up Quarterly

This publication is produced quarterly on behalf of the national sponsors of the Link Up America Telephone Assistance Program. The Federal Communications Commission, the United States Telephone Association, and the Consumer Federation of America organizational contacts are:

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202/632-5050

Patti Grace Smith, FCC
202/632-7260

Steve Brobeck, CFA
202/387-6121

Kathy Baumann, USTA
202/835-3157

Paul Rogoski, USTA
202/835-3158



The C&P Speakers Bureau has six presentations on the Link Up program scheduled in sites throughout Washington, D.C.

West Virginia

Direct mail campaign reaches 90,000 low income West Virginians.

From mid-October through the end of November, 90,000 low income people in West Virginia learned about Link Up America through a direct mail program. The West Virginia Department of Human Services, a member of the state's Link Up America coalition, mailed applications to public assistance and Food Stamp recipients in the state.

"The direct mail program has already produced results," said Roberta Fowlkes, C&P Telephone Company consumer affairs manager and Link Up America coordinator for West Virginia. "In October, more than 700 applications were received in business offices of the ten telephone companies serving the state," she said.

The West Virginia Commission on Aging, another member of the coalition, also launched a statewide campaign. Outreach workers with the Area Agencies on Aging in each of 55 counties, have received packets of informa-

Texas

Continued from Page 5

vice president of the United Way of Texas, would also be sending a letter to all state chapters.

In addition to Southwestern Bell, General Telephone of Texas is also participating in Link Up America, and United Telephone indicated it will become a participant in early 1988.

A special group of service representatives from Southwestern Bell is in charge of handling the Link Up America inquiries in Texas. Customers can apply for Link Up America services by calling 1/800-832-LINK.

Information for this article was provided by Debra Hollingsworth, area manager-community relations for Southwestern Bell.



Irene Ryan of Charleston, West Virginia, places a Link Up America poster in the Senior Nutrition Site at Carver Cancer Center.

tion on the program to assist in educating clients about Link Up benefits.

Outreach workers will assist applicants directly, by certifying eligibility for the Department of Human Services. This certification procedure is important, since West Virginia's eligibility requirements include low income people who do not currently receive any assistance. These outreach workers can identify eligible candidates not known by Human Services.

"These two state agencies have taken active measures to help eligible people learn about the program," Fowlkes said. "We feel with these combined efforts, we are reaching the large majority of eligible people very early in the trial period."

In December, more than 4,000 people who receive home delivered meals will also get a flyer on Link Up America, with instructions to talk with their outreach worker about the program.

Other members of the coalition are also doing their part. Many have included information in their publications, spreading the word throughout their organizations and membership.

General Telephone Company held Link Up America activities in two cities this past November.

Sandra Walls, public affairs manager, was in Romney, West Virginia on Tuesday, November 10, and in Charlestown Wednesday, November 11, to provide information to the public.

In addition to the Department of Human Services, the Commission on Aging and the telephone companies, the coalition includes local chapters of the National Council of Jewish Women, the National Association of Social Workers, the West Virginia Coalition on Legislation for the Elderly, the West Virginia Public Service Commission, the office of the Consumer Action Against Poverty, the League of Women Voters, and the Council of the Southern Mountains.

The next step in West Virginia's plan is to deliver public service announcements, recently videotaped by the state's congressional representatives in Washington, D.C., to television stations in the state. So far, announcements have been completed by Representatives Molohan, Rahall and Wise and by Senator Rockefeller. In addition, all the congressional offices will distribute information on the program (see separate article).

Information for this article was provided by Roberta P. Fowlkes, staff manager-employee information/consumer affairs for C&P Telephone of West Virginia.



LinkUp
America

Participating Organizations

American Association of
Retired Persons
American Gas Association
Area Agencies on Aging
Arkansas Attorney General's
Office
Arkansas Community
Organizations for Reform
Now
Arkansas Public Service
Commission
Arkansas Telephone Association
Center City Community
Corporation
Coalition of Texans with
Disabilities
Consumer Federation of
America
Council of the Southern
Mountains

Arkansas

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the sponsoring coalition, the state Public Service Commission has given its endorsement by approving the tariff filings for each of the 28 telephone companies in the state.

Information for this article was provided by Greg Russell, secretary to the district staff manager-news relations for Southwestern Bell

D.C. Energy Office
D.C. Office of Consumer and
Regulatory Affairs
D.C. Office of People's Counsel
D.C. Public Service
Commission
D.C. State Council of Senior
Citizens
Federal Communications
Commission
Food Bank Network
Gordon Adult Education Center
Governor's Committee for
Disabled Persons (Texas)
Gray Panthers
League of Women Voters
NAACP
National Association of
Broadcasters
National Association of
Regulatory Utility Commis-
sioners
National Association of Social
Workers
National Council of Jewish
Women
National League of Cities
Office of the Consumer
Advocate of West Virginia
Retired Senior Volunteer
Program

Southwest Arkansas
Development Council
Texas Agriculture Extension
Service
Texas Department on Aging
Texas Department of Human
Services
Texas Employment Commission
Texas Public Utility
Commission
Texas Senior Citizens
Association
United States Telephone
Association
United Way of Texas
West Virginia Coalition on
Legislation for the Elderly
West Virginia Commission on
Aging
West Virginia Department of
Human Services
West Virginia Multi-County
Community Action Against
Poverty
West Virginia Public Service
Commission
Young Women's Christian
Association
(As of November 30, 1987)



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NLCA Lifeline Assistance Initial Certification
Guidelines

Lifeline Connection Assistance

The FCC in its Decision and Order in Dockets CC 78-72 and 80-286 has expanded the lifeline program to include a Lifeline Connection Expense Adjustment (LCA). The LCA will allow exchange carriers, after having been certified, to assign a portion of the costs for commencing telephone service for eligible subscribers to the interstate jurisdiction.

Certified Exchange Carriers will be allowed to submit as an expense adjustment, 50% of the normal tariffed charges for commencing telephone service for a single residential line. The expense adjustment may not exceed \$30.00. Also for those Exchange Carriers that have deferred payment plans for Tariffed charges for commencing telephone service, the interest on deferred payments up to \$200 may be submitted as an expense adjustment. The interest shall be applied only to the amounts actually outstanding at the same interest rate as the latest 10 year Treasury Bill on January 1 of the submitted data year.

Subscriber Eligibility for LCA are:

1. Must reside at an address where there has been no telephone service for at least 3 months prior to requesting LCA. The address must be the principal place of residence and no one in the household has telephone service.
2. The requesting subscriber has not received LCA for at least 2 years prior to current request.
3. Must meet a state established income test.
4. The requesting subscriber must not be a dependent for federal income tax purposes if under 60 years of age (i.e. not listed on another persons Tax Form 1040 as a dependent).

Certification of eligibility for items 3 and 4 may be self certified by the subscriber. Certification of eligibility for items 1 and 2 may be done by the state or telephone company. If it is administratively infeasible for certification by the state or the telephone company for items 1 and 2, self certification by the subscriber is acceptable but the state established income test must be made by the state, telephone company or a state designated agency.

Exchange Carriers and State Responsibility

The Exchange carriers and/or the State desiring to take advantage of LCA must submit a plan to the Federal Communications Commission for certification. A plan submitted by the state should cover all Exchange carriers within its jurisdiction that are willing to provide LCA. An Exchange carrier can submit its own plan with state concurrence, to the Federal Communications Commission for certification.

The submitted plan shall include

1. The type of LCA being provided, the options are:
 - a) reduction to the eligible subscriber of one half of the tariffed charges for commencing telephone service for a single residential line not to exceed \$30.00
 - b) forgiveness of interest to eligible subscribers on deferred schedule for payments of the tariffed charges for commencing telephone service up to \$200, if the exchange company has such a plan.
 - c) both the reduction of the tariffed charges for commencing telephone service and forgiveness of interest charged to subscribers for deferred payment of commencing service.
2. The criteria for subscriber eligibility and verification tests.
3. The tariffed rate elements for commencing telephone service.
4. Lifeline Assistance Data Form for Initial Certification filed concurrently with the FCC and NECA.

The Exchange Carrier can claim lifeline connection assistance expense adjustment effective with FCC certification and when the relevant tariff provisions are in effect.

Lifeline Assistance SLC Waiver

Lifeline Assistance (LA) for residential subscribers is a reduction of the end user subscriber line charge (SLC). The reduction in residential SLC is accomplished by one of two ways, (1) with the provision of state funds, the SLC is reduced to the extent of the state matching funds (2) the SLC is reduced 50% if the Exchange Carrier reduces the local exchange service rate by an equal amount.

The reduction of the residential SLC involving state provision of funds requires a plan to be submitted to the FCC Secretary for certification. The plan may be submitted by the state or by the individual Exchange Carrier.

To qualify for a SLC reduction a subscriber must be eligible for, and receive assistance or benefits, e.g. Food Stamp, Aid to Dependent Children. The type of assistance or benefits received by the eligible subscriber may vary from state to state.

The plan submitted to the FCC shall include the amount of state assistance being provided for single line residential telephone, details and calculations underlying the amount of state assistance and certification of subscriber eligibility. The Exchange Carrier can begin offering the reduction in the SLC for eligible subscribers, equal to the state assistance as soon as the FCC certifies the plan and the relevant tariff provisions become effective.

The subscriber line charge (SLC) for a residential subscriber can be reduced by 50% if the Exchange Carrier reduces the residential local exchange rate for qualified subscriber by an equal amount. Unlike the subscriber reduction with state matching assistance, no plan has to be filed with the FCC. However, the rate reduction is based on a means test that is verifiable. The SLC reduction is effective with the tariff provisions.

Lifeline Assistance Data for Initial Certification

FCC rules require that when a plan is certified, data be filed with the FCC and NECA. Attached is the required Data Certification Form.

The data requirements must be reported by study area.

A. Lifeline Connection Assistance

- Line 605 - Forecast the number of subscribers that are eligible and expected to receive LCA for the initial six month period.
- Line 615 - Forecast the total dollar amount discount for LCA for the eligible forecasted subscribers for the initial six month period. The amount per eligible subscriber is 50% of the normal tariffed charges or \$30, whichever is less.
- Line 625 - Forecast the number of eligible subscribers for the initial six month period for which payments of service connection charge are on a schedule of deferred payments.
- Line 635 - Forecast the total dollar amount of forgiven interest on the outstanding amount of deferred payments for the initial six month period. The deferred amount on which the cost of interest is to be calculated is not to exceed \$200. The interest rate to be applied to

the outstanding amounts is the rate for the most current issued 10 year Treasury Bill as of January 1 of the year which the forecast is made.

B. End User SLC Waiver

Line 655 - Forecast the number of eligible subscribers in the study area that are expected to be granted less than the full reduction of SLC.

Line 665 - Forecast the number of eligible subscribers in the study area that are expected to be granted 100% SLC reduction. In order to qualify for 100% SLC reduction, the state assistance must be equal to or greater than the SLC in effect.

Line 675 - Forecast the total dollar amount for the SLC being reduced for the initial six month forecast period. This amount is for the eligible subscribers forecasted on lines 655 and 665 above.

FEB. 87

reiterated the benefits of rate integration.¹¹ Given the parties' general acceptance of rate integration and the FCC's repeated expression of its intention to retain the policy, we submit that the question is not really in issue. To avoid any possible question, the Joint Board should again confirm, and the FCC reaffirm, the commitment to rate integration as a cornerstone of the public interest in Alaska.¹²

III. THE HISTORICAL AT&T-ALASCOM ARRANGEMENT HAS BROUGHT UNIVERSAL SERVICE TO ALASKA, AND ITS CONTINUATION IS ESSENTIAL TO ACHIEVE THAT PURPOSE.

A. The Arrangement Has Made Possible Universal Service At Affordable Rates and Permits Competitive Entry On the Same Basis as in the Rest of the Country.

Alascom's joint participation with AT&T has made universal Alaskan interstate and intrastate service a reality. The basic public interest goal for Alaska has always been to create a reliable and affordable statewide network in order to provide a full range of interstate and intrastate telecommunications services -- "universal service" -- to all Alaskans.

Beginning in the early 1970s, many Alaskans gained access to basic telephone service for the first time. The "network"

¹¹ Memorandum Opinion and Order, FCC 86-602, CC Docket No. 83-1376, para. 26 (released January 2, 1987). The benefits included (a) helping to offset the competitive damage to Alascom under current interim Alaska policies; (b) bringing reduced rates to "the one-third of the customers in Alaska who do not presently have access to competitive alternatives"; and (c) preventing upward pressure on intrastate jurisdictional costs and rates from Alascom's loss of interstate market share.

¹² See, e.g., NARUC-FCC Separations Manual, 87 FCC 2d 25, 27-28 (1981).

started with few facilities. For many remote villages, there was no dependable contact with the rest of Alaska or the nation, and even the cities were served by a rudimentary system designed to meet military needs.¹³

Today, Alascom provides a full range of interstate and intrastate, switched and private line, analog and digital, voice, television and data services throughout the State and between Alaska and the rest of the world. Alascom's present range of services and propensity for innovation are far greater than when Alascom first started in 1971, and far greater than are to be found today from GCI. That company furnishes basically a voice service in competition with the interstate MTS/WATS service Alascom furnishes jointly with AT&T.

Satellite technology was seen, and proved, to be a breakthrough that made possible otherwise impossible statewide universal service and could substantially improve and broaden service to all Alaskan locations. However, achieving statewide service, even by satellite, turned out to be a phenomenal task. The time, cost and difficulty of developing a state-

¹³ When Alascom's previous owner bid to purchase the Alaska Communication System (ACS) eighteen years ago, the rural service facilities consisted of 14 land radio (shortwave) stations that were intended to maintain contact with the Government-owned network for toll messages and telegrams. Offer to Purchase Alaska Communication System Commercial Communications Network, RCA Global Communications, Inc., Vol. 2, March 1, 1969, Section 6, p.1. Telephone service even to those few villages was erratic and unreliable; the quality of service was low and its availability very limited.

of-the-art, satellite-based network proved to be more than Alascom had predicted and far more than the State and others had forecast. This was the case particularly when it came to instituting new state-of-the art satellite service for the remote rural areas of Alaska. Some equipment required more than forty design changes before it was adequate to the task of providing basic service in the Alaskan Bush.¹⁴

Despite the obstacles, Alascom built its present proven, and reliable, satellite-and-terrestrial network. That network serves the entire 550,000 square miles of the State and connects Alaska with the rest of the world through interconnection with other carriers in the contiguous states and Canada. The network has sufficient capacity and facility, route and satellite-terrestrial redundancy and diversity to enable it to fulfill dependably its role as Alaska's interstate and intrastate universal service provider and carrier of last resort. If Alascom did not provide that service for all Alaskans,

¹⁴ Attachment F, p. 10 n. 5. Final costs per two voice channel Bush earth station were approximately \$150,000, exclusive of all other costs, including gateway costs and receive-only television, compared to much lower cost estimates by government and other participants. One reason was the underestimated hostility of the Alaskan environment. The conditions in remote Alaska made for travails that outdo Jack London stories. For example, Alascom crews told of "white outs," temperatures of 50 to 60 degrees below zero, high frosted winds of 50 to 90 mph and the need to dive helicopters off mountaintops to overcome the buildup of ice and snow. The crews never knew whether they would have to chop six to ten inches of radial ice off the microwave towers or tie themselves together so as not to be blown off the mountain. Substantial previously unanticipated costs were what we now see as the inevitable consequence.



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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1975).

Report No. DC-890

ACTION IN DOCKET CASE

April 16, 1987

**FCC ADOPTS JOINT BOARD RECOMMENDATIONS CONCERNING
SUBSCRIBER LINE CHARGES, FEDERAL LIFELINE ASSISTANCE, HIGH COST
ASSISTANCE AND POOLING OF COMMON LINE COSTS
(CC DOCKETS 78-72, 80-286)**

The Commission today adopted the Federal-State Joint Board's recommendations on subscriber line charges, federal lifeline assistance, high cost assistance, and pooling of common line costs, with minor modifications. The FCC described the Joint Board's recommendations as an integrated plan that will provide economic benefits for the nation through reduced long distance rates and more efficient use of the public switched network.

The FCC adopted the Joint Board's recommendation that the cap on subscriber line charges for residential and single-line business increase in three modest increments from the present \$2.00 to a level of \$3.50 as of April 1, 1989. No further increases in subscriber line charges are expected beyond this level.

The FCC, however, modified the Joint Board's implementation dates for the first two increases in subscriber line charges. The FCC found that the first \$.60 increase should be postponed one month to July 1, 1987 and the second \$.60 increase should be postponed three months to December 1, 1988. The final \$.30 increase will be implemented on April 1, 1989, as originally proposed.

The Commission stated that the change in implementation dates was in response to concerns stated by Congress. The FCC further stated that it was sending additional bypass information and median telephone usage data to Congress by June 1, 1987 in response to these stated concerns. Further, the FCC stated that the change from the Joint Board's recommended June 1st implementation date to the July 1 date would also allow additional time for full review of the reductions in carrier access charges and the subsequent flow through to long distance rates paid by customers. It also stated that the change from September 1, 1988 to December 1, 1988 would allow a thorough review of the impact of the first \$.60 increase.

(over)

In addition, the FCC adopted the Joint Board's recommendations to expand the federal lifeline assistance program. One part of the expanded assistance measures is a program to help qualified low income households defray the one-time charge for connection and installation. This program, "Link Up America," will offset one half of the connection and installation charges, up to \$30, and will encourage local telephone companies to offer deferred payments by paying their interest costs on an amount up to \$200. In addition, the current lifeline assistance program, which provides a matching federal-state discount to qualified subscribers, was increased to correspond to the subscriber line charge increases.

The FCC also adopted the Joint Board's recommendation to retarget the high cost assistance to high cost telephone companies, effective January 1, 1988. This will provide additional assistance to small and medium size companies and less assistance to the large telephone companies.

The FCC found that the increased subscriber line charges will permit needed changes to the present nationwide pooling system for non-traffic-sensitive (common line) costs. In this regard, the FCC found that increasing the ceiling on subscriber line charges to \$3.50 would reduce variations in companies' common line cost recovery needs which will substantially alleviate the possibility that pooling modifications would result in deaveraging of interstate long distance rates. Therefore, it adopted the Joint Board's recommendations to permit local telephone companies to withdraw from the nationwide common line pool and to file common line tariffs based on their own common line costs. These modifications would be effective April 1, 1989, with the final increase in the subscriber line charge cap.

In conjunction with all these changes the FCC adopted the Joint Board's recommendation to establish a more comprehensive monitoring program to track the impact of these actions. The program will provide frequent reports on the data collection to Congress and state regulators. In addition, the FCC found that the FCC and Joint Board members should have a 90-day study and review of the impact of these changes which also will be filed with Congress and state regulators.

Finally, the FCC directed the local telephone companies to flow through the July 1 increase through reductions in the originating carrier common line charge and to file these changes with the FCC on May 1, 1987. It also directed AT&T Communications to pass on to customers the savings it realizes as a result of reductions in carrier common line charges by reducing long distance rates. AT&T Communications was directed to file these changes with the FCC on May 15, 1987. The FCC also directed that subscriber line charges on embedded Centrex lines be increased to \$4.00 on July 1, 1987, \$5.00 on December 1, 1988, and \$6.00 on April 1, 1989.

The FCC emphasized that adoption of the recommendations, particularly the modest increases in subscriber line charges, represented a significant step toward achieving cost-based telecommunications pricing which will help diminish the threat of uneconomic bypass. In addition, it stated its belief that movement toward cost-based pricing, including the implementation of subscriber line charges, would produce significant, tangible benefits for large and small telecommunications customers.

Without subscriber line charge increases and the retargeting of the high cost assistance program, the Commission stated, the full range of benefits outlined by the Joint Board would be unattainable. If there were no subscriber line charge increases, the telephone companies' individual carrier common line charges would vary widely from study area to study area and from state to state, thus threatening continuation of the nationally averaged interstate long distance rates. By withdrawing from the pool, low cost companies will be able to charge a carrier common line rate closer to their own lower cost of service, rather than the higher nationally averaged (pooled) carrier common line rates. Thus, bypass incentives are minimized. Moreover, all telephone companies that leave the pool will have more incentives to lower their costs since they will benefit directly from any cost savings.

Reviewing the Joint Board's study of these issues, the FCC found that the initial implementation of subscriber line charges furthered the goals of the access charge proceeding. It noted that since the initial implementation of subscriber line charges, nationwide telephone subscribership levels have increased to an all time high of 92.4%, the number of households without telephone service has decreased from 7.4 million to 6.8 million, subscribership levels among low income groups have remained stable, and subscribership levels among the elderly have remained stable at a level that exceeds the national average.

The Commission believes the "Link Up America" program will generate further increases in telephone penetration rates among the approximately 5 million low income households who are not on the network.

The Commission also concluded that the subscriber line charges presently in effect have increased the economic efficiency of the public switched network. It cited the reductions in carrier access charges as well as the over 30% reduction in interstate long distance rates that has occurred since the implementation of subscriber line charges. Moreover, the decrease in long distance rates has stimulated additional usage of the public switched network, thus making more efficient use of this vast public resource.

Finally, the FCC found that with the implementation of subscriber line charges, to the extent that switched access charges have been more closely aligned with the relevant costs of providing that service, large customers have been provided significant incentives to remain on the public switched network, and bypass has been delayed or averted.

(over)

Action by the Commission April 16, 1987, by Report and Order (FCC 87-133). Commissioners Fowler (Chairman), Quello, Dawson, Patrick and Dennis, with Chairman Fowler issuing a statement.

- FCC -

Press contact: Richard Violette at (202) 632-5050

Common Carrier Bureau contacts: Cynthia Work and Barbara Lynch at (202) 632-6363 and Michael Wack at (202) 632-9342.

STATEMENT OF
MARK S. FOWLER, CHAIRMAN

TODAY'S ACTION ON THE RECOMMENDATIONS OF THE FEDERAL-STATE JOINT BOARD REPRESENTS THE FINAL MAJOR PIECE OF REGULATORY REFORM FOR NTS COST RECOVERY. THIS IS AS IMPORTANT A DECISION AS ANY THIS AGENCY HAS EVER MADE. IT IS IMPORTANT TO FUEL AMERICA'S LEADERSHIP ROLE IN TELECOMMUNICATIONS IN THE YEARS AHEAD.

AS I SIT HERE TODAY LOOKING BACK ON OUR STRUGGLE TO INTRODUCE THE REFORMS REPRESENTED BY THIS ITEM, I ASK MYSELF "WAS IT WORTH IT?" THE ANSWER IS AN EMPHATIC "YES."

DESPITE THE CONTROVERSY, THE POLITICAL HEAT GENERATED BY THESE RADICAL CHANGES IN COST RECOVERY MECHANISMS, THE HOURS AND HOURS OF WORK OVER THE LAST FEW YEARS DEVOTED TO MAKING THE JOINT BOARD PROCESS WORK, THE EFFORT WAS WORTH IT.

IN LARGE MEASURE DUE TO THESE REFORMS, THE AMERICAN PUBLIC CAN CONTINUE TO LOOK FORWARD TO AFFORDABLE TELEPHONE SERVICE PROVIDED BY THE MOST MODERN, EFFICIENT TELECOMMUNICATIONS NETWORK IN THE WORLD.

THERE ARE THOSE WHO ARGUE THAT THE REFORMS WERE UNNECESSARY, AND THAT THERE WAS NOTHING WRONG WITH THE STATUS QUO. THESE ARGUMENTS ARE NOT SURPRISING. CHANGE ALWAYS INTRODUCES A DEGREE OF DISCOMFORT. NEVERTHELESS, IT WAS CLEAR TO ME SIX YEARS AGO THAT CHANGE, RADICAL CHANGE, WAS NEEDED.

THE THEN EXISTING SYSTEM OF NONECONOMIC COST RECOVERY WAS ON THE VERGE OF PRODUCING CATASTROPHIC RESULTS. PERVERSE PRICE INCENTIVES WERE DRIVING LARGE USERS OFF THE PUBLIC SWITCHED NETWORK. UNECONOMIC CROSS-SUBSIDIES EXISTED EVERYWHERE. MEANWHILE, COMPETITION WAS BEGINNING TO PLAY AN EVER-INCREASING ROLE, DEMANDING THAT EXISTING SERVICES BE PRICED IN RELATIONSHIP TO COST.

TODAY WE ARE MIDWAY THROUGH THE REFORM PROCESS INITIATED IN 1983 AND 1984. THE ITEM BEFORE US TODAY WILL CARRY US THROUGH TO THE CONCLUSION OF THAT PROCESS.

THE PACKAGE OF PROPOSALS RECOMMENDED BY THE JOINT BOARD IS A HIGHLY INTEGRATED, COMPREHENSIVE SET OF POLICY INITIATIVES THAT TOGETHER WILL ADVANCE THE TELECOMMUNICATIONS NETWORK TO THE BENEFIT OF ALL AMERICAN CONSUMERS. THE INCREASE IN SUBSCRIBER LINE CHARGES TO \$3.50 IS NECESSARY TO CONTINUE THE DOWNWARD MOVEMENT OF LONG DISTANCE RATES TOWARD THEIR ACTUAL COST AND TO STIMULATE NETWORK USAGE IN ORDER TO ENABLE THE INDUSTRY TO FINANCE LINK-UP AMERICA. THE INCREASE IN SUBSCRIBER LINE CHARGES IS ALSO NECESSARY TO TRIGGER DEPOOLING. RE-TARGETING OF HIGH COST ASSISTANCE ALSO HELPS PROVIDE THE INCENTIVES WE NEED TO GET SOME COMPANIES OUT OF THE UNECONOMIC, INEFFICIENT POOLING ARRANGEMENT THAT PRESENTLY PREVAILS.

IT IS WITH NO SMALL SENSE OF SATISFACTION THAT I CAN SAY THAT THE REFORMS WE INTRODUCED SEVERAL YEARS AGO, IN PART TO

MINIMIZE THE "NEGATIVES" OF SERVICE PRICING, DISCRIMINATION AND BYPASS, ALSO GENERATED A HOST OF "POSITIVES" IN THE FORM OF ECONOMIC EFFICIENCY EFFECTS INCLUDING RATE CUTS, AND POSITIVE TRENDS IN UNIVERSAL SERVICE, EFFECTS WHICH WE PREDICTED IT WOULD GENERATE.

THIS FINAL PACKAGE OF NTS COST RECOVERY REFORM IS DESIGNED TO ENHANCE FURTHER THE POSITIVE BENEFITS FLOWING FROM THE FIRST TWO DOLLARS OF THE SUBSCRIBER LINE CHARGE. FIRST, AND MOST IMPORTANTLY, THE JOINT BOARD'S RECOMMENDATION WILL INCREASE TELEPHONE PENETRATION AMONG AMERICAN HOUSEHOLDS. WE KNOW THAT TELEPHONE PENETRATION HAS RISEN SINCE 1983 FROM 91.4% TO AN ALL-TIME HIGH OF 92.4% TODAY. IT IS PLAIN TO SEE THAT THE INTRODUCTION OF DOLLARS ONE AND TWO HAS HAD NO ADVERSE IMPACT ON UNIVERSAL SERVICE. OUR NEW LINK-UP AMERICA PLAN, ALONG WITH OUR EXPANDED FEDERAL-STATE MATCHING LIFELINE PLAN, CAN ADD EVEN MORE HOUSEHOLDS TO THE NETWORK, HOUSEHOLDS THAT TODAY CANNOT AFFORD TO OBTAIN TELEPHONE SERVICE. WE ESTIMATE THAT UP TO 5 MILLION OF THE 6.8 MILLION HOUSEHOLDS PRESENTLY WITHOUT TELEPHONE SERVICE COULD BE ELIGIBLE FOR LINK-UP AMERICA. IF CHAIRMAN-DESIGNATE PATRICK'S ADMINISTRATION IS SUCCESSFUL IN GETTING STATE COMMISSIONS AND TELEPHONE COMPANIES TO ADOPT LINK-UP, PENETRATION RATES WILL RISE DRAMATICALLY.

DOLLARS ONE AND TWO HAVE ALSO LEFT THE OTHER VITAL SIGNS OF THE NETWORK EQUALLY HEALTHY. IN THE THREE YEARS PRIOR TO

SUBSCRIBER LINE CHARGES, GROWTH IN SWITCHED ACCESS MINUTES AVERAGED 7.6% ANNUALLY. SINCE MAY 1984, WHEN SUBSCRIBER LINE CHARGES WERE INTRODUCED FOR MULTILINE BUSINESS CUSTOMERS, THAT GROWTH RATE HAS JUMPED TO NEARLY 11%. INTERSTATE MTS AND WATS ARE ALSO GROWING AT A RAPID RATE -- 21.5% IN THE 1984-86 PERIOD. THIS IS DIRECTLY ATTRIBUTABLE TO THE DECREASE OF APPROXIMATELY 30% IN INTERSTATE TOLL RATES. THESE TRENDS WILL CONTINUE AS THE ADDITIONAL \$1.50 IS PHASED IN, AND LONG DISTANCE RATES CONTINUE TO DROP ANOTHER 15%, AT LEAST.

THE ITEM BEFORE US TODAY, THROUGH ITS MODIFICATIONS TO THE EXISTING POOL OF NTS REVENUES, WILL PROVIDE FURTHER INCENTIVES TO EFFICIENCY. ONCE CARRIERS ARE ALLOWED TO LEAVE THE POOL AND CHARGE THEIR OWN CARRIER COMMON LINE RATE, THEY HAVE A CLEAR INCENTIVE TO PROVIDE ACCESS SERVICE IN THE MOST EFFICIENT WAY POSSIBLE. THESE EFFICIENCIES CAN BE PASSED ON TO CONSUMERS IN THE FORM OF LOWER RATES.

OBVIOUSLY, THE CHANGES REPRESENTED BY THIS ITEM HAVE CREATED SOME UNCERTAINTY. THE JOINT BOARD HAS RECOMMENDED, AND WE ADOPT HERE, A COMMITMENT TO DEVELOP AN EXTENSIVE MONITORING PROGRAM DESIGNED TO UNCOVER THE EXISTENCE OF ANY ADVERSE TRENDS GENERATED BY THE CHANGES PROPOSED IN THIS ITEM. ONE OF THE FIRST ORDERS OF BUSINESS WILL BE TO DEVELOP THE DETAILS OF THE MONITORING PLAN THAT WILL PROVIDE REGULAR, STANDARDIZED REPORTS TO THE JOINT BOARD, THE FCC, NARUC, AND CONGRESS.

WE WILL ALSO GO ONE STEP FURTHER. BASED ON CONSULTATIONS WITH UNITED STATES REPRESENTATIVE EDWARD J. MARKEY, CHAIRMAN OF THE HOUSE SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE, WE ARE POSTPONING THE IMPLEMENTATION DATE OF THE FIRST 60 CENT INCREMENT BY ONE MONTH -- TO JULY 1, 1987. THAT WILL ALLOW FOR FULL FCC REVIEW OF THE FLOW-THROUGH TARIFFS. AS WE HAVE STATED ON MANY OCCASIONS, WE WENT TO ENSURE THAT EVERY DOLLAR OF REDUCTIONS IS FLOWED THROUGH TO REDUCTIONS IN RATES TO CONSUMERS. THE ADDITIONAL TIME WILL ALSO PERMIT THE FCC TO CONTINUE TO WORK WITH CONGRESS ON THE ISSUES PRESENTED BY THIS ITEM. WE HAVE AGREED WITH CHAIRMAN MARKEY TO PROVIDE HIM ON OR BEFORE JUNE 1, 1987, WITH A STAND-ALONE ANALYSIS OF BYPASS DATA, SEPARATE FROM THE ANALYSIS CONTAINED IN THE JOINT BOARD'S RECOMMENDED DECISION, AS WELL AS INFORMATION ON MEDIAN LONG DISTANCE USAGE OF AMERICAN HOUSEHOLDS. THE CHANGE TO JULY 1 WILL PROVIDE CHAIRMAN MARKEY WITH THE TIME TO REVIEW THE INFORMATION PRIOR TO THE 60 CENT IMPLEMENTATION. THE BYPASS ANALYSIS FOLLOWS UP ON CHAIRMAN MARKEY'S REQUESTS AT THE APRIL 2 SUBCOMMITTEE HEARING FOR A FURTHER ANALYSIS OF THE BYPASS ISSUE, AND WILL FOCUS ON THE BYPASS STUDIES WE FORWARDED TO HIM AND HIS STAFF LAST WEEK. I HAVE EVERY CONFIDENCE THAT BY OUR WORKING WITH CHAIRMAN MARKEY ON THIS ISSUE, THE AMERICAN PUBLIC WILL COME OUT AHEAD. SECOND, IN RESPONSE TO CONCERNS BY CHAIRMAN MARKEY AND UNITED STATES REPRESENTATIVE MATTHEW RINALDO, WE WILL POSTPONE IMPLEMENTATION OF THE SECOND 60 CENTS FROM SEPTEMBER

1, 1988 to December 1, 1988. This will permit a thorough review and analysis of the effect of the first 60 cent increase, and permit ample time for review of the results. I recognize that implementation delays will not be popular with an industry anxious to complete the process of reform. I, as one who wants to foster consumer welfare, share that concern for public interest reasons. We have already taken the industry's proposal and re-shaped it to the point where additional changes may risk what is today a finely-tuned and fragile consensus. However, none of the modifications adopted today postpones the final full implementation of subscriber line charges. Because our actions will vitally boost America's economy and competitiveness, and save people money too, it is imperative that we do so.

I understand that New Jersey has withdrawn its depooling petition in anticipation of this Commission's adoption of the Joint Board's recommendations. This is indeed good news as New Jersey stands to lose the most from the continuation of mandatory pooling through April 1989. I hope other low cost states and low cost companies will be equally as patient. Any further delay could result in depooling by the contributor companies through judicial action, which can bring about geographic rate deaveraging. Any more delay could be catastrophic.

ONCE AGAIN, I'D LIKE TO THANK CYNTHIA WACK AND STAFF FOR
WORKING SO HARD ON GETTING THIS FCC ITEM TO US IN SHORT ORDER.
I UNDERSTAND THAT MICHAEL WACK SPENT HOURS IN FRONT OF THE
WORD PROCESSOR, AND BARBARA LYNCH ASSISTED CINDY WITH A
MULTITUDE OF ASSIGNMENTS NECESSARY TO BRING THIS ITEM BEFORE
US TODAY.

2. Universal Service

Rate integration is closely connected to the statutorily-based Commission policy of fostering universal telecommunications service. Section 1 of the Communications Act of 1934, as amended, ("the Act"), 47 U.S.C. § 151, states that the Commission was created:

For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges... ^{17/}

Citing this statutory directive, this Court then stated that "[o]ur case law recognizes the prominence of this universal service objective," and rejected a contention that the Commission has no responsibility to promote universal service. National Association of Regulatory Utility Commissioners v. FCC, 737 F.2d 1095, 1109 & n.6 (1984), cert. denied, 105 S. Ct. 1224 (1985). The

^{17/} Cf. Committee on Commerce, Science, and Transportation, Report on S. 1660, the Universal Telephone Service Preservation Act of 1983, S. Rep. No. 270, 98th Cong., 1st Sess. 25 (1983):

The policy of rate integration has been specifically endorsed by this Committee as long ago as 1975. The Committee believes that rate integration represents sound public policy that benefits the entire Nation, and must be maintained. The Committee notes it is consistent with the overall policy objective of this legislation -- to maintain universal telephone service at reasonable rates throughout the Nation.

Commission has also consistently recognized that Section 1 of the Act mandates affordable, universal telephone service,^{11/} and has employed the rate integration policy in connection with achieving this goal.^{12/}

3. Competition

In the MTS & WATS Market Structure Inquiry, the Commission opened the Alaska interstate telecommunications market to competition. It "concluded that competition would result in telecommunications service provided at the lowest possible cost, reduction or elimination of waste, an increase in the responsiveness of carriers to the needs and desires of the consumers, and more rapid and efficient responses by the carriers to technological change and innovation." 92 F.C.C.2d 787, 793 (1982).

^{11/} See, e.g., MTS & WATS Market Structure, CC Docket Nos. 78-72 and 80-286, released July 26, 1985, at 1 (The Joint Board, in an Order Inviting Further Comments, stated that "The preservation of universal telephone service has been a major Commission objective throughout the MTS & WATS Market Structure proceeding"); MTS & WATS Market Structure, 97 F.C.C.2d 682, 683 (1983), aff'd in part, remanded in part, sub nom. NARUC v. FCC, 737 F.2d 1095 (D.C. Cir. 1984), cert. denied, 105 S. Ct. 1224 (1985); Notice, CC Docket No. 78-72, Phase IV, FCC 83-254, released June 8, 1983; MTS & WATS Market Structure, 93 F.C.C.2d 241, 265-67, 278 (1983).

^{12/} "The relatively high level of charges . . . has inhibited the free flow of communications between the contiguous states and those [offshore] points to the disadvantage of all of our citizens." Domsat I, 35 F.C.C.2d at 856; see also n.12, supra.

In the
United States Court of Appeals
for the District of Columbia

No. 85-1279

ALASCOM, INC.,

Petitioner,

v.

THE FEDERAL COMMUNICATIONS COMMISSION AND
THE UNITED STATES OF AMERICA,

Respondents.

THE STATE OF ALASKA AND THE ALASKA
PUBLIC UTILITIES COMMISSION, ET AL.,

Intervenors.

On Petition for Review of a Final Order
of the Federal Communications Commission

BRIEF FOR INTERVENORS THE STATE OF ALASKA
AND THE ALASKA PUBLIC UTILITIES COMMISSION

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September 30, 1985

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAR 3 1987

In the Matter of)
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Integration of Rates and)
Services for the Provision of)
Communications by Authorized)
Common Carriers Between the)
Contiguous States and Alaska,)
Hawaii, Puerto Rico and the)
Virgin Island)
)

CC Docket No. 83-1376

RM 4436

To: The Federal-State Joint Board

FURTHER COMMENTS OF
THE STATE OF ALASKA

I. INTRODUCTION

The State of Alaska (Alaska or the State) hereby submits further comments in the above-captioned proceeding. The December 2, 1986 round of initial comments shows that all parties recognize the need to ensure universal service for Alaska and that provision of telecommunications service is critical to the State.

II. FOSTERING AND MAINTAINING UNIVERSAL SERVICE SHOULD
CONTINUE TO BE THE LODESTAR FOR THIS PROCEEDING.

In its initial comments, the State stressed the reliance Alaskans place on telecommunications to help overcome the vast distances, harsh climate, and limited transportation alternatives

which characterize the State. Other parties also voiced this concern, and stressed the importance of universal service for Alaska.^{1/} The State highlighted the fact that universal service in the State continues to be difficult to achieve: the telephone penetration level has recently been as low as 83.5% (in July 1986), which was lower than all other states except Mississippi.^{2/} The State concluded that given the telephone penetration level in Alaska

it is particularly important that this Joint Board not retreat from the longtime commitment to rate integration, impose changes in separations procedures or devise mechanisms which would either undermine the realization of universal service for Alaska or prevent provision of service to all areas of Alaska.^{3/}

^{1/} See, e.g., Comments of Alascom, Inc. at 6-10 (Alascom Comments); Comments of the Anchorage Telephone Utility at 2-4 (ATU Comments); Comments of the Alaska Telephone Association at 6-11 (ATA Comments); Comments of General Communication, Inc. at 16 (GCI Comments); Comments of the National Telecommunications and Information Administration at 5 (NTIA Comments). See also Comments and Proposal of American Telephone and Telegraph Company at 14 (AT&T Comments).

^{2/} Comments of the State of Alaska at 11 (Alaska Comments). The most recent survey of "Telephone Subscribership in the U.S." shows Alaska telephone penetration for November, 1986 at 87.3 percent. Because of the State's small population and the small sample size, the statistical variation for Alaska in this survey is 5 percent. Industry Analysis Division, Common Carrier Bureau, "Telephone Subscribership in the U.S." at Table 2 (released January 12, 1987) (Report). Even this Report, however, shows that in Alaska both telephone penetration in households and telephone availability other than in households remain very substantially below national averages (by 5.1 and 4.8 percent, respectively). Id. at Tables 1 and 2.

^{3/} Alaska Comments at 11.

As the State discussed in its initial comments, elasticity studies presented to the CC Docket No. 78-72 Joint Board suggest that telephone subscribership levels are more elastic in areas in which such levels are already relatively low.^{1/} Two recent studies provide additional evidence that increases in monthly telephone rates could cause significant declines in telephone penetration levels.

A study by the Idaho Public Utilities Committee concludes that each \$1.00 increase in monthly residential telephone rates in Idaho sparks a 0.4 percent decline in telephone penetration assuming other factors are held constant. Idaho Public Utilities Commission, "The Demand for Basic Residential Telephone Service in Idaho" at 8 (undated) (IPUC Study). Accordingly, a \$5.00 increase per month would lower the Idaho telephone penetration level 2.28 percent, and a \$20.00 monthly increase would spark a decline of 9.18 percent.^{2/}

A study prepared for the Consumer Advocate Division of the West Virginia Public Service Commission concludes that a \$5.00 per month increase in residential rates in West Virginia would lead to a 4 percent decrease in telephone penetration. A \$10.00 per month increase would cause 12 percent of West Virginian customers to cancel service and, as monthly increases approach \$20, 27 percent would give up service. Chilton Research Services, "Residential Customers' Attitudes Toward Telephone Services in West Virginia",

^{1/} See Alaska Comments at 26 & n.45.

^{2/} IPUC Study at 8-9.

Prepared for The Consumer Advocate Division, State of West Virginia Public Service Commission at 3, 26 (October 28, 1986) (West Virginia Study). This study confirms the findings of studies submitted to the FCC that customers with the lowest incomes are most likely to cancel service in response to rate increases.^{6/}

These studies, of course, were not done in Alaska. Both Idaho and West Virginia, however, are, like Alaska, primarily rural. Both have higher telephone penetration levels than Alaska. Thus, the effects of rate increases on universal service may be greater in Alaska than the effects these studies indicate for Idaho and West Virginia. Together, these studies suggest the Joint Board must proceed with great caution, particularly in addressing proposals to change separations policies, which could create as much as \$26 to \$28 per access line per month increases in Alaska telephone rates.^{1/}

III. WITH IMPLEMENTATION OF THE FINAL STEP OF RATE INTEGRATION, ALASKA SHOULD BE TREATED AS PART OF THE NATIONALLY AVERAGED RATE STRUCTURE.

On December 31, 1986, the Commission granted the Emergency Petition for Relief of Alascom, Inc. (Alascom) and ordered implementation of the final step of rate integration and termination of the \$1.25 million monthly transitional supplement paid to Alascom

^{6/} West Virginia Study at 28.

^{1/} See Alaska Comments at 27 n.47.

by AT&T.^{8/} After fifteen years' transition, implementation of the final step of rate integration now allows Alaskans to enjoy the same geographically averaged interstate rates enjoyed by residents of all other states. Full rate integration should be maintained.^{9/}

Now that it has been fully instituted, Alaska rate integration should be accommodated in the same manner it is in other states. Rates for MTS/WATS service to and from Alaska should be part of the nationally averaged rate structure. Costs of service to and from Alaska should be treated as are those of other states, because the national rate structure is designed to generate revenue needed to recoup costs of providing service to and from all parts of the country. Shortfalls on so-called high cost routes are recouped by providing service on so-called low-cost routes.^{10/}

^{8/} Memorandum Opinion and Order, CC Docket No. 83-1376, FCC 86-602 at 2, 16 (released January 2, 1987) (January 2 Order).

^{9/} Whatever steps the Commission might take in connection with the U.S. Court of Appeals recent decision in Alascom, Inc. v. Federal Communications Commission (Case No. 85-1279 (January 27, 1987)), it should not tamper with the final step of rate integration. To undo that step would mean interstate rates, just lowered, would be forced back up, creating rate churn and inequity for Alaska consumers. This would be particularly unjust given that the final step of rate integration was accompanied by termination of the \$15 million annual transitional supplement. Because of that termination, Alascom has filed a request to the Alaska PUC for authority to institute certain new charges designed to increase intra-state revenues. See n.24, infra. Changes to full rate integration would require, at the least, corresponding changes with respect to reinstitution of the transitional supplement.

^{10/} See Alaska Comments at 12-19.

In this connection, the data requested by Alascom, Inc. in its Motion to Obtain Required Information (filed December 24, 1986) may well prove instructive.

IV. SEPARATIONS CHANGES THAT SHIFT COSTS TO THE
INTRASTATE JURISDICTION WOULD UNDERMINE UNIVERSAL
SERVICE.

In its January 2 Order terminating the supplement paid to Alascom, the Commission recognized that it was "inequitable to place at risk the intrastate communications that are essential to many subscribers in the remote areas of Alaska."^{11/} The Commission concluded that, chiefly because of the decreased cost of capital and the treatment of the now terminated supplement as cost-free capital by the Alaska Public Utilities Commission (APUC), upward pressures on intrastate rates had abated, "if not disappeared completely."^{12/}

The State believes that the Commission has misread the status of pressures on intrastate rates. These pressures have not "disappeared completely." Although the cost of capital may have decreased, there remain significant factors that contribute to upward pressure on intrastate rates, including, for example, the need to complete the development of Alaska's telephone system. This and other factors creating upward pressures on intrastate rates are conspicuously absent from the Commission's analysis.

Perhaps even more conspicuous, however, is the failure by the Commission to acknowledge that the greatest pressure on intrastate rates could come from the myriad of separations proposals the Joint Board in CC Docket No. 80-286 is now considering. These

^{11/} January 2 Order at ¶ 14.

^{12/} Id. at ¶ 34.

als, if adopted, would increase dramatically the costs to be red from the intrastate jurisdiction, and accordingly, e enormous upward pressures on intrastate rates. As the noted in its December 2 Comments, the Category 8 separations edures changes proposed by AT&T could cause an extraordinary t -- \$42 million -- to the Alaska intrastate jurisdiction.^{11/} n the small number of access lines in the State -- approxi- ely 250,000 -- a shift of \$42 million would increase the intra- te revenue requirement by approximately \$167.50 per access line : year, or \$14 per line per month.^{14/} Combined with other cost co rry changes, intrastate revenue requirements could increase / up to \$28 per line per month.^{15/}

Increases in Alaskan intrastate revenue requirements of these magnitudes are inconsistent with universal service.^{16/} According to data submitted by Alascom and ATA, rural (and other) Alaskans already pay more for phone service than comparable customers in

^{11/} Alaska Comments at 24.

^{14/} Id. at 25 n.42.

^{15/} Id. at 27 n.47.

These figures would be reduced by \$3 per line per month if the Commission is correct in its assumption, enunciated in its January 2 Order, that the impact of that decision would require only a \$6 million per year intrastate rate increase. January 2 Order at ¶ 34. See also ATA Comments at 26, 36.

^{16/} Were the IPUC Study results to be applicable in Alaska, a \$40 per month increase could lead to a decline in service of over 18 percent (reducing Alaskan penetration levels to about 70 percent). Were West Virginia Study results applicable, an even greater decline in service would be suggested.

the lower 48.^{17/} Merely stating the magnitude of these shifts and resulting revenue requirements, however, understates the special hardships that rate increases would pose for low income residents of the State, whom, the Idaho, West Virginia and other studies show, are apt to suffer the greatest decline in service.^{18/}

In light of these facts and the facts set forth in the State's Comments, separations changes must not be instituted which would harm universal service. As the State has urged, companies with high Category 6 costs should receive cost support analogous to the support provided for high NTS local loop costs, or comparable support. With respect to Category 8 costs, Alaska should be treated like other states, which requires adoption of "make-whole" policies to assure that Alaskans, like other Americans, face no massive jurisdictional revenue shifts.^{19/}

AT&T has suggested that if separations shifts would harm universal service in Alaska, then the State should subsidize telephone service so as to minimize that harm.^{20/} This argument is both theoretically and factually unsound. If adopted, it would

^{17/} ATA Comments at 16-17, 26 & Attachment C; Alascom Comments at 10-11.

^{18/} In order to preserve and prevent declines in universal service, the Commission could closely monitor the status of Alaska telecommunications service. This monitoring would assist it in assessing the impact of termination of the supplement, any separations changes adopted, or any other changes in provision of service.

^{19/} Reply Comments of the State of Alaska, CC Docket No. 80-286 at 18-21, 26-27 (October 29, 1986). See also Alaska Comments at 20-29.

^{20/} AT&T Comments at 31-32.

criminate against Alaska by requiring it, and no other state, to subsidize telephone service to keep rates at affordable levels. Viewed in this way, the proposal is the antithesis of rate integration. Further, as AT&T itself emphasized in its Opposition to Alascom's Motion to Obtain Required Information, Alascom's toll network is the functional equivalent of local loops in the lower 48.^{21/} In the lower 48, high local loop costs are supported by the high cost fund. In Alaska, support from a similar source must be found for its functional equivalent.^{22/}

In its Order extending time for filing these comments, the Commission recognized that parties should have an opportunity to comment in this proceeding on actions taken by the CC Docket No. 80-286 Joint Board on separations issues.^{23/} On February 13, 1987, the Commission announced that the February meeting at which the Joint Board was to have arrived at a recommendation on those issues was being postponed until March. The State suggests that the Commission either postpone the final round of comments in this proceeding or announce that supplemental comments may be filed

^{21/} AT&T Opposition at 3.

^{22/} In this connection, it should be noted that, in significant part because of the precipitous drop in oil revenues described in its Comments, the State budget for Fiscal Year 1987 is now estimated to be \$875 million in the red. The State, therefore, is being forced to retrench. The Governor, in fact, has proposed a Fiscal Year 1988 budget that represents a 27 percent cut in spending from Fiscal Year 1987 levels. Annual Budget Message By The Honorable Steve Cowper, Governor of the State of Alaska (January 28, 1987).

^{23/} Memorandum Opinion and Order, CC Docket No. 83-1376, FCC 1558 at 1.

thirty days after the CC Docket 80-286 Joint Board's recommendations on Central Office Equipment Categories 6 and 8 separations are released.^{24/} Resolution of collateral matters, such as Alascom's motion concerning immediate implementation of the Court of Appeals order in Alascom, Inc. v. Federal Communications Commission, may also require the filing of supplemental comments.

V. CONCLUSION

The State suggests that the points raised in these comments and the principles outlined in its initial comments be used to

^{24/} Some comments in this proceeding have addressed the issue of transition periods for implementation of new separations rules. Given that the existence, nature and scope of any changes in separations rules has yet to be decided, it would appear that such comments are premature. Any transition period must be calibrated to be sufficiently long to take into account the relationship between any enacted separations changes and the need to maintain universal service.

Alascom suggests four methods of increasing intrastate revenues. Id. at 42-43. To respond to the need for increased intrastate revenues in light of the termination of the supplement Alascom, on January 22, 1987, filed a request with the APUC to institute directory and operator assistance rates, and related measures. Presumably, those methods would, therefore, not be available to support intrastate revenue increases required by other separations changes.

protect and enhance universal service for Alaska.

Respectfully submitted,

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February 27, 1987

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To: The Federal-State Joint Board

REPLY COMMENTS OF THE STATE OF ALASKA

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SUMMARY

The Communications Act establishes as national telecommunications policy the promotion of service on a nation-wide basis to as many people as possible. Universal service must, therefore, be the fundamental goal in this proceeding.

The Joint Board has had presented to it extensive data, comments and proposals, as well as further comments. In these three sets of submissions, no party has disputed that Alaska's geography, demographics and other characteristics make telecommunications services critically important to, and universal service particularly difficult to achieve, in Alaska. In light of these facts and fundamental national telecommunications policies, the Joint Board should recommend, and the Commission adopt, measures that will (1) maximize universal service by allowing all Alaskans to obtain telecommunications services at affordable rates, and (2) promote integration of Alaska into the rest of the United States.

To foster universal service in Alaska, it is necessary to acknowledge the existence of and need for a carrier of last resort for the provision of Alaska interstate and intrastate services. Changes in the market structure through which interstate services are provided can have significant effects on the provision of intrastate services. These effects would frustrate the achievement of universal service.

As the State has maintained in its previously filed comments, integration of Alaska into the rest of the Nation is an important

national goal and can be accomplished, in significant part, by treating the costs of providing telecommunications services to and from Alaska in the same manner as are the costs of providing such services in other parts of the United States.

The State believes any proposal that would frustrate, rather than promote, the goals of universal service and integration of Alaska into the rest of the Nation should not be recommended by the Joint Board.

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To: The Federal-State Joint Board

REPLY COMMENTS OF THE STATE OF ALASKA

The State of Alaska (Alaska or the State), by its attorneys and pursuant to the Joint Board's Order Requesting Data and Inviting Comments in this proceeding, hereby submits its reply comments.

I. THE CRITICAL IMPORTANCE OF TELECOMMUNICATIONS SERVICES TO AND THE DIFFICULTY OF ACHIEVING UNIVERSAL SERVICE IN ALASKA ARE UNCONTROVERTED.

In its July 15, 1986 response to the Joint Board's data request, Alaska submitted data concerning the State and its citizens. Information concerning demographics, geography, climate,

Response of the State of Alaska to Order Requesting Data and Inviting Comments (July 15, 1986) (Data Response).

transportation, education, public safety and health, economics, state revenues and expenditures, and the State's provision and consumption of telecommunications services was provided. Other parties provided similar or related information.

It is worth noting again some of the essential facts established.^{1/} The combination of Alaska's vast size and its small population makes the State's population density one-fifth that of the state with the next lowest population density (Wyoming) and one-sixty-seventh that of the United States as a whole.^{2/} Alaska has almost 300 communities. All but three contain fewer than 10,000 people, and over 200 communities have fewer than 500 people.^{3/} These settlements are dispersed throughout Alaska's 591,004 square miles, an area equal to 20 percent of the continental United States.^{4/}

This sparse and geographically dispersed population faces an extraordinary harsh climate and difficult terrain.^{5/} Transportation is difficult and roads are extremely limited.^{6/} In such circumstances, telecommunications services are critically important.

^{1/} A summary of the data was provided with the State's Data Response at 1-5. Facts of particular relevance were highlighted in the Comments of the State of Alaska at 5-10 (November 28, 1986) (Alaska Comments).

^{2/} Data Response at 1.

^{3/} Id. at Section A, 4-5.

^{4/} Id. at Section A, 1.

^{5/} Id. at Section C.

^{6/} Id. at Section D.

For example, Alaskans rely on telecommunications to provide emergency medical services and education to citizens in rural areas.^{1/} The State's unusual characteristics can make telecommunications services unusually costly to provide.^{2/}

Despite the extraordinary need for it, telecommunications service is not universally available in Alaska. Telephone penetration in the State has historically been, and continues to be,

^{1/} Id. at Section F, 1-9, Section E, 2.

^{2/} As the Commission has previously stated:

The remote communities in Alaska rely on telecommunications for much of their contact with others. The costs of providing this service to these points is significantly higher than that for other locations given the low population density, the remoteness of many of the communities, and the fixed costs associated with satellite transmission.

Integration of Rates and Services, CC Docket No. 83-1376, FCC 84-616 at 2 (December 11, 1984). See also Integration of Rates and Services, CC Docket No. 83-1376, FCC 84-512 at 7 (December 11, 1984), in which the Commission said:

The State of Alaska has unique geographic and cost characteristics which were a significant factor in the Commission's adoption of rate integration, and may also influence the type of competitive market structure that will be viable in Alaska. In the decision opening the Alaska MTS/WATS market to competition, the Commission noted several of these characteristics, including low, thinly distributed population density . . . adverse climatic and geographic conditions, and remote facility locations leading to high maintenance costs.

among the lowest in the Nation and significantly below national averages.^{10/}

These record facts are uncontroverted. The State asks the Joint Board to keep them in mind as it considers the policies to be applied to Alaska.^{11/}

II. THE JOINT BOARD SHOULD RECOMMEND MEASURES THAT WILL ALLOW ALL ALASKANS TO OBTAIN TELECOMMUNICATIONS SERVICES AT AFFORDABLE RATES AND THAT WILL PROMOTE INTEGRATION OF ALASKA INTO THE NATION.

In the State's view, the record facts outlined above and the fundamental national telecommunications policies of universal service and rate integration require adoption of proposals that will (1) allow all Alaskans to obtain telecommunications services at affordable rates, and (2) promote integration of Alaska into the rest of the Nation.^{12/} In fact, although they may also advance other goals, the relevant interexchange carriers have acknowledged these public interest policies as proper goals in this proceeding. Alascom has advocated rate integration and sought to minimize additional burdens on intrastate ratepayers to promote universal

^{10/} See Further Comments of the State of Alaska at 2 (February 27, 1987); Alaska Comments at 11.

^{11/} If, because of intervening regulatory or legal events, the Joint Board determines that it needs additional data regarding telecommunications service, the State, or other matters, it should immediately request such additional data and ask that they be filed as promptly as possible.

^{12/} See Alaska Comments at 2-4, 12-19 for a discussion of the universal service and rate integration policies.

service.^{11/} AT&T has, at least tacitly, acknowledged the propriety of rate integration by proposing a special fund to support it in rural Alaska.^{14/} GCI has recognized the importance of universal service by its discussion of the need for a support mechanism for rural service and its proposal to freeze cost allocations to promote universal service.^{15/}

A. Universal Service Requires A Carrier Of Last Resort.

Universal service can be promoted by recognizing the existence of and need for a carrier of last resort for interstate and intrastate services. The Commission, in its bush earth stations proceeding, recognized that only one satellite facility can be supported in rural Alaskan areas.^{16/} Alascom has been the carrier obliged to provide service to and from those points.^{17/} At least

^{11/} E.g., Further Comments of Alascom, Inc. at 1-4, 45-47 (February 27, 1987) (Alascom Further Comments).

^{14/} Comments and Proposal of AT&T at 29-36 (December 7, 1986) (AT&T Comments and Proposal).

^{15/} Further Comments of GCI at 6 (March 2, 1987) (GCI Further Comments). See also id. at 26 ("[A]doption of GCI's present proposal would provide a new mechanism through which the Commission could harmonize its policies of universal service through rate integration and competition in the Alaska market.").

^{16/} Policies Governing Ownership and Operation of Domestic Satellite Earth Station in Bush Communities in Alaska, 96 F.C.C.2d 522, 523 (1982); Policies Governing Ownership and Operation of Domestic Satellite Earth Stations in Bush Communities in Alaska, 92 F.C.C.2d 736, 738 & n.12 (1982); RCA Global Communications, Inc., 56 F.C.C.2d 660, 689 (1975).

^{17/} E.g., Alascom Further Comments at 8.

with respect to intrastate services, Alascom's obligation is a function of state regulation and policy.

The State urges the Joint Board to recommend a market structure that allows a carrier of last resort to provide interstate and intrastate services at affordable rates. Changes to the market structure through which interstate services are provided can have significant effects on the provision of intrastate service by, for example, creating stranded investment problems or causing other shifts in jurisdictional cost allocations. If these effects are ignored, it is possible (and perhaps even likely) that many Alaskans would not have access to telecommunications services and thus that universal service would be undermined.

Costs of standard investment could be forced into the intrastate jurisdiction, and onto intrastate ratepayers, creating rates well beyond the level of affordability for all Alaskans, particularly those for whom a carrier of last resort is most needed. This danger exists because there is a single network through which both interstate and intrastate services are provided by the carrier of last resort.^{13/}

Similarly, the Joint Board should critically evaluate any approach that would significantly affect cost allocations for jointly used equipment. As did the Joint Board in CC Docket No.

^{13/} Alascom Further Comments at 17-19 and Attachment A. It has been predicted that intrastate toll rates could as much as triple to cover increased costs if certain market changes were instituted. Id. Such rates are already almost twice as high as interstate rates for calls of the same distance. Id. at 13 and Attachment B.

80-286,^{12/} this Joint Board should recognize the need to avoid significant intrastate rate increases as a result of separations procedures and rules. Since separations rules for certain types of equipment take into consideration the relative amounts of interstate and intrastate use, market structure changes that would reduce significantly the relative amount of interstate use of Alascom's network could create significant increases in intrastate revenue requirements and thus, intrastate rates. Such market structure changes would frustrate universal service and should not be recommended.

- B. Integration Of Alaska Into The Nation Requires That Costs Of Providing Interstate Service For Alaska Be Treated In The Same Manner As Are Costs Of Providing Such Service Elsewhere In The United States.

Integration of Alaska and other off-shore points into the national telecommunications system has been a fundamental Commission policy for more than fifteen years.^{10/} Recently, the Commission implemented that policy by ordering the final step of rate integration for Mainland U.S.-Alaska routes^{11/} and by asking this

^{13/} See FCC News Release, Report No. DC-863 (March 12, 1987).

^{10/} See Alaska Comments at 12-17 for a discussion of the rate integration policy and relevant Commission decisions.

^{11/} Integration of Rates and Services, Memorandum Opinion and Order, CC Docket No. 83-1376, FCC 86-602 (January 2, 1987).

Joint Board to study rate integration with respect to Alaska-Hawaii routes.^{11/}

The final step of Mainland U.S.-Alaska rate integration should be maintained. Alaskans and those who communicate with them should not be forced to pay higher interstate rates than other Americans. Rate integration continues to be in the public interest for the entire nation.

The Commission's rate integration policy requires that, with respect to interstate rates, Alaska be treated no differently than other states. Both the rates charged for service to and from Alaska and the manner in which those rates are calculated should be no different than they are for other states. As the State has stressed,^{11/} the essence of rate integration is that geographically averaged rates are set at levels necessary to generate sufficient revenue to cover the cost of providing service (including a reasonable rate of return) to all portions of the United States, not each and every portion by itself. The Commission has said its rate integration policy "should be interpreted as implicitly recognizing that a rate structure which averages rates in 48 states and de-averages rates in two states may subject the residents of those two states to an unreasonable prejudice or disadvantage

^{11/} Integration of Rates and Services, Supplemental Notice of Proposed Rulemaking, CC Docket No. 83-1376, FCC 86-600 (January 9, 1987).

^{11/} See Alaska Comments at 14.

within the meaning of Section 202(a) [of the Communications Act]."^{14/}

Alaska is not, and should not be considered, a separate interstate interexchange market.^{15/} Differences between revenues derived from and costs allocated to interstate service to and from Alaska have been, and should continue to be, built into nationally averaged rates established pursuant to the Commission's rate integration policy. They have been, and given the mandates of the Communications Act and Commission policy, must continue to be, treated the same as differences for service to and from other locations which are costly to serve.

Notwithstanding AT&T's protestations to the contrary, it is proper to require carriers charging rate integrated rates to be responsible for the costs of Alaska service. AT&T, for example, is permitted to charge rates that are higher than costs for low cost routes because it charges the same rates, which are lower than costs, for high cost routes of comparable length. To allow AT&T to derive excess profits (i.e., profits above a reasonable rate of return) from serving low cost routes and not use those

^{14/} MTS/WATS Market Structure, 81 F.C.C.2d 177, 192 (1980). The Commission also said: "[A] rate structure which uses different ratemaking methods to determine the rates which different users pay for comparable services is inconsistent with the national policy expressed in Section 202(a)." Id.

^{15/} Competitive Common Carrier Services, 95 F.C.C.2d 554, 574-75 (1983) ("[W]e conclude that there is a single national relevant geographic market (including Alaska . . .) for interstate, domestic, interexchange telecommunications services with no relevant submarkets.").

profits to cover the costs of service on high cost routes would likely raise its rate of return above allowed levels. Such a practice would be contrary to the rate integration policy and would involve de-averaging, in a manner which the Commission has said would violate Section 202(a) of the Communications Act.

III. FUNDAMENTAL ELEMENTS OF AT&T'S PROPOSAL TO ALTER THE EXISTING MARKET STRUCTURE WOULD FRUSTRATE ACHIEVEMENT OF UNIVERSAL SERVICE AND INTEGRATION OF ALASKA INTO THE NATION.

As the Supreme Court noted thirty years ago, competition can promote innovation, efficiency, lower prices, and better products or service.^{26/} Competition, however, is not an end, but a means.^{27/}

AT&T's proposal to change further the existing telecommunications market structure in Alaska is designed to enhance open entry and competition in Alaska interstate services. While open entry and competition may, as the Supreme Court elucidated, result in benefits which promote the public interest, fundamental elements of the AT&T approach appear inconsistent with the primary

^{26/} American reliance on free competition rests on the premise that "unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress. . . ." Northern Pacific Railway Co. v. United States, 356 U.S. 1, 4 (1958). See also MTS-WATS Market Structure Inquiry, 92 F.C.C.2d 787, 841 (1982).

^{27/} "It is only in a blunt, indiscriminating sense that we speak of competition as an ultimate goal." FCC v. RCA Communications, Inc., 346 U.S. 86, 92 (1953). Further, "encouragement of competition as such has not been considered the single or controlling reliance for safeguarding the public interest." Id. at 93.

public interest goals of fostering universal service and integration of Alaska into the rest of the Nation.

AT&T's approach rests on creation of an "Alaska Rural Fund" of \$39 million to provide "support" for universal service in rural portions of Alaska.^{11/} Support would be allocated from the fund on a route-by-route basis. Both the total amount of the fund and the support allocated to each individual route would be capped and phased-out at some indefinite point in the future. In addition, AT&T seeks, inter alia, to be allowed a point of presence in Alaska.^{12/}

AT&T's approach, while repeated in each of its pleadings, is sketchy and lacking in operational detail. Notwithstanding the absence of detail, the plan is flawed in serious and fundamental respects and thus provides an inadequate and inappropriate solution to the issues before the Joint Board. Universal service and Alaskan integration into the Nation would be hampered, not advanced, by it.

(1) Creation of an Alaska rural fund would be a fundamental and unprecedented departure from, and might well presage the end of, rate integration and national geographically averaged rates. AT&T, in effect, proposes to spin off Alaska, and indeed "rural" Alaska, from the rest of the Nation. The difference between costs and revenues from providing service there would be treated differently than anywhere else in the United States. Ironically,

^{11/} AT&T Comments and Proposal at 29-35.

^{12/} Id. at 26.

if rural Alaska is unusually expensive to serve (an assumption which AT&T has not supported with any comparative data), an area that needs rate integration most would be segregated from the rest of the Nation's telecommunications system. If that were done, analogous treatment for other "high cost" areas, perhaps in rural Western or Southern states, or in costly to serve "rust belt" communities, might follow.

The result of permitting creation of special funds for allegedly costly to serve areas would be the Balkanization of what has been a unified telecommunications system that has served this country well. The current unified system would be replaced by a multi-tiered system in which rates and quality of service would vary geographically. For example, low cost areas would likely be well served either at current rates (which would generate profits above a reasonable rate of return) or perhaps at lower rates. High cost areas would likely be served only at rates higher than those currently charged. Even those rates might not generate revenues sufficient to cover costs and service quality would likely decline. Universal service would no longer be attainable.

(2) Even without regard to the unprecedented nature of what AT&T proposes, and its long-term effects on the Nation's telecommunications system, the support AT&T proposes would not ensure that needed service is provided to all Alaskans. For example, AT&T claims that the difference between costs incurred and

revenues derived from Alaskan interstate service is \$97 million.^{10/} Approximately \$40 million, AT&T claims, is attributable to separations procedures for Category 8 COE.^{11/} Thus, by AT&T's own figures, the remaining difference between cost of providing Alaskan interstate service and the revenues derived is approximately \$57 million.

Even that amount, AT&T admits, might be too small. It was based on the difference between revenues and costs before the final step of rate integration. Alaskan interstate rates are now lower and the revenue shortfall on Alaskan routes may be somewhat higher.^{12/} Thus, even if, in total contravention of the Commission's rate integration policy, there were to be an Alaska rural fund, AT&T's proposed fund could not provide resources needed for service to Alaska to continue.

In addition, AT&T seeks to distinguish between areas within Alaska for purposes of "support." AT&T justifies its \$39 million figure as the amount of "support" necessary for rural Alaska only. The difference between \$57 million and \$39 million (i.e., \$18 million), it says, goes to "support" urban service in Alaska.^{13/} "Urban" Alaska should not be segregated from the rest of the Nation, however, any more than should "rural" Alaska. Each

^{10/} E.g., Further Comments of AT&T at 2, 5, 7 (February 27, 1987) (AT&T Further Comments). This figure excludes the transitional supplement which ceased being paid in January 1987.

^{11/} Id. at 8.

^{12/} Id. at 5 n.*.

^{13/} Id. at 15, 20.

is part of the single interstate interexchange telecommunications market. All areas are entitled to geographic rate averaging without regard to whether they are "urban" or "rural." All areas in the United States are entitled to the benefits of rate integration.

(3) There is no evidentiary support for the assumption underlying AT&T's proposal that the difference between revenues generated by rate integrated rates and costs of serving Alaska will diminish over time. This assumption underlies AT&T's argument that a cap and eventual termination of the fund for rural Alaska and no "support" for urban Alaska are appropriate. Apparently, this assumption is based on AT&T's hopes that economic and population growth in rural Alaska will ultimately allow profitable operations there and that competition and market freedom will spur immediate efficiencies and economies in urban markets. These hopes may or may not prove to be correct, but they are unsupported by the record in this proceeding. AT&T has not pointed to any specific cost savings that will result from the market structure changes it seeks.

Further, even if its hope that rural service costs will decrease proves incorrect, AT&T still proposes (again without support) that its Alaska rural fund be phased-down and eventually terminate.^{14/} This proposal would destroy any hope of universal service in Alaska and is totally unjustifiable.

^{14/} AT&T Comments and Proposal at 35-36, 36 n.**.

(4) AT&T's approach of allocating support to specific routes appears impractical and likely to lead to a regulatory and bureaucratic nightmare. Rate integration makes route specific accountings and allocations irrelevant and unnecessary. No purpose would be served by engaging in such exercises here. The complexities, regulatory lag, and inherent inaccuracies of this approach would make the costs of such a scheme -- even without regard to the expense of its administration, including economic and accounting studies -- vastly outweigh any conceivable benefits.

(5) AT&T's proposal for a point of presence in Alaska also raises universal service concerns. A principal purpose of AT&T's attempt to obtain an Alaskan point of presence is to allow AT&T to interconnect with Alascom in Alaska, thus minimizing the distance over which Alascom handles calls.^{15/} Because distance has been a factor in allocating COE Category 8.23 costs between the interstate and intrastate jurisdictions, creating an AT&T point of presence in Alaska would shift millions of dollars a year in costs to the intrastate jurisdiction.

As noted above, the Joint Board in CC Docket No. 80-286 has recommended that the relative allocation of interexchange carrier COE Category 8.23 costs be frozen at 1985 percentages. Until that Joint Board decision is released and the Commission itself acts, the specific effects AT&T's proposed Alaskan point of presence would have on universal service can not be determined with

^{15/} Response to Data Request of AT&T at 15-17 (July 15, 1986).

certainty. It should be noted, however, that the Joint Board recommended freezing interexchange carrier allocation percentages at 1985 levels. It did not recommend continuing to apply a distance sensitive allocation formula to new study period data, which could result in new, different allocation percentages. Thus, if the Joint Board's recommendation is adopted, it appears that Category 8.23 separations will be frozen at 1985 percentages regardless of whether AT&T is allowed a point of presence in Alaska. In any event, the State would have serious concerns if this Joint Board were to permit an AT&T point of presence in Alaska, particularly if such a development would create significant increases in intrastate revenue requirements or other effects which would endanger universal service.

IV. CONCLUSION

The State requests that the Joint Board carefully consider all the evidence in the record and recommend to the Commission a market structure that promotes universal service by allowing all

Alaskans to obtain telecommunications services at affordable rates
and that integrates Alaska into the rest of the Nation.

Respectfully submitted,

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March 27, 1987

Sec

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- 601. Interstate Commerce Commission and Postmaster General; duties, powers and functions transferred to Commission.
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SUBCHAPTER I. GENERAL PROVISIONS

§ 151. Purposes of chapter; Federal Communications Commission created

For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is created a commission to be known as the "Federal Communications Commission", which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this chapter. June 19, 1934, c. 652, Title I, § 1, 48 Stat. 1064; May 20, 1937, c. 229, § 1, 50 Stat. 189.

Historical Note

1937 Amendment. Act May 20, 1937 inserted the words "for the purpose of promoting safety of life and property through the use of wire and radio communication."

Authority of Director of Emergency Planning During Time of War. Delegation of authority of President under sections 305(a) and 606(a), (c), and (d) of this title, relating to radio stations and communications, to Director during time of war, see Ex.Ord.No.10705, Apr. 17, 1937, 22 F.R. 2729, set out as a note under section 606 of this title.

Commission on Governmental Use of International Telecommunications. Joint Res. July 29, 1954, c. 647, 68 Stat. 537, established the Commission on Governmental Use of International Telecommunications to examine, study and report on the objectives, operations, and effectiveness of information programs with re-

spect to the prompt development of techniques, methods, and programs for greatly expanded and far more effective operations in this vital area of foreign policy through the use of foreign telecommunications. The Commission was required to make a report of its findings and recommendations on or before Dec. 31, 1954, and the Commission ceased to exist 90 days after submission of its report to the Congress.

Communication Privileges to Participants in World Telecommunication Conferences. Act May 13, 1947, c. 51, 61 Stat. 83, provided that nothing in this chapter, or in any other provision of law shall be construed to prohibit United States communication common carriers from rendering free communication services to official participants in the world telecommunications conferences to be held in the United States in 1947.

EXECUTIVE ORDER NO. 10160

Ex.Ord.No.10460, June 18, 1933, 18 F.R. 3513, as amended by Ex.Ord.No.10773, July 1, 1938, 23 F.R. 5001; Ex.Ord.No.10782, Sept. 8, 1938, 23 F.R. 4271, formerly set out as a note under this section, which related to the performance of telecommunication functions by Director of the Office of Civil and Defense Mobilization, was revoked by section 4 of Ex.Ord.No.10905, Feb. 19, 1942, 27 F.R. 1519, set out as a note under section 507 of this title.

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Construction 3
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1. Constitutionality

The radio broadcasting licensing system established by Congress in this chapter is a proper exercise of power of Congress over "commerce". *National Broadcasting Co. v. U. S.*, N.Y.1943, 63 S.Ct. 997, 319 U.S. 190, 87 L.Ed. 1344. See, also, *Regents of University System of Georgia et al. v. Carroll*, 1948, 60 S.E.2d 608, 78 Ga.App. 292, affirmed 70 S.Ct. 370, 338 U.S. 580, 94 L.Ed. 303.

The standard provided by this chapter for licensing of radio broadcasting station is public interest, convenience or necessity and denial of a station license on that ground, if valid under this chapter, is not a denial of "free speech". *National Broadcasting Co. v. U. S.*, N.Y.1943, 63 S.Ct. 997, 319 U.S. 190, 87 L.Ed. 1344.

The Supreme Court had refused to answer questions relating to the constitutionality of provisions in former section 81 et seq. of this title propounded by the court of appeals, on the ground that they were indefinite. *White v. Johnson*, 1931, 51 S.Ct. 115, 282 U.S. 367, 75 L.Ed. 388. See, also, *American Bond & Mortgage Co. v. U. S.*, 1931, 51 S.Ct. 118, 282 U.S. 374, 75 L.Ed. 395.

In enacting this chapter Congress must be deemed to have exercised its power within constitutional limitations. *Sablowsky v. U. S.*, C.C.A.Pa.1938, 101 F.2d 183.

The Congress under this chapter completely occupied and pre-empted the field of interstate communications in radio and television. *Lamb v. Sutton*, D.C.Tenn. 1959, 164 F.Supp. 928, affirmed 274 F.2d 705, certiorari denied 80 S.Ct. 1601, 363 U.S. 650, 4 L.Ed.2d 1524.

2. Construction

The United States Court of Appeals would not construe provision of this chapter so as to leave a licensee without opportunity for relief from arbitrary action of the Federal Communications Commission and so as in effect to eliminate provision from this chapter, unless

provision were susceptible of no other possible interpretation. *Yankee Network v. Federal Communications Commission*, 1939, 107 F.2d 212, 71 App.D.C. 11.

In construing this chapter it is court's duty in so far as it is practicable to reconcile the different provisions of this chapter, to render them consistent and harmonious and give effect to each. *Sablowsky v. U. S.*, C.C.A.Pa.1938, 101 F.2d 183.

3. Purpose

This chapter is a comprehensive scheme for the regulation of interstate communication. *Benanti v. U. S.*, N.Y.1957, 78 S.Ct. 155, 355 U.S. 96, 2 L.Ed.2d 126.

The purpose of this chapter was to protect the public interest in communications, and this chapter did not create new private rights. *Scrpps-Howard Radio v. Federal Communications Commission*, 1942, 62 S.Ct. 875, 316 U.S. 4, 84 L.Ed. 1229. See, also, *Regents of N. M. College of Agriculture & Mechanic Arts v. Albuquerque Broadcasting Co.*, C.C.A.N.M.1947, 158 F.2d 990.

The purposes of creation of Commission by this section as expressed by Congress therein, and mandates pursuant to such purposes, as enumerated in this section, furnish ample support for Commission's adoption of nation-wide television allocation plan. *Peoples Broadcasting Co. v. U. S.*, 1953, 209 F.2d 286, 93 U.S.App.D.C. 78.

The purpose of Congress in establishing the Commission was to set up an expert agency capable of coping with the ever-changing and constantly increasing problems of a booming industry. *American Broadcasting Co. v. Federal Communications Commission*, 1951, 191 F.2d 492, 89 U.S.App.D.C. 293.

This chapter was not designed primarily as a new code for adjustment of conflicting private rights through adjudication but was designed to maintain a grip on the dynamic aspects of radio transmission. *American Broadcasting Co. v. Federal Communications Commission*, 1951, 191 F.2d 492, 89 U.S.App.D.C. 293. See, also, *Massachusetts Universalist Convention v. Hildreth & Rogers Co.*, D.C.Mass.1949, 87 F.Supp. 822, affirmed 183 F.2d 497.

The underlying policy of this chapter is the securing and protection of the pub-

lic interest. *WOKO, Inc. v. Federal Communications Commission*, 1940, 100 F.2d 665, 71 App.D.C. 228.

The purpose of this chapter is to secure the use of the channels of radio communication by private licensees under a competitive system and hence those licensees must be protected in that use, not merely from unlicensed stations and unlicensed operators, but from improper activities of licensed stations and operators and from arbitrary action by the Commission itself in the exercise of its regulatory power. *Yankee Network v. Federal Communications Commission*, 1939, 107 F.2d 212, 71 App.D.C. 11.

The Commission is an administrative agency set up by Congress to determine pursuant to this chapter the rights of the people of the United States to have the best possible radio service. *Black River Valley Broadcasts v. McNinch*, 1938, 101 F.2d 235, 69 App.D.C. 311, certiorari denied 59 S.Ct. 703, 307 U.S. 623, 83 L.Ed. 1591.

This chapter was designed to the end that the Commission should have jurisdiction over and power to regulate within its terms all interstate and foreign communication and transmission of energy by wire and radio. *Sablowsky v. U. S.*, C.C.A.Pa.1938, 101 F.2d 183.

Purpose of regulating radio transmission is to prevent chaos and insure satisfactory service and it is in interest of public and common justice to owner that status of broadcasting station constructed and maintained in good faith should not be injuriously affected except for compelling reasons. *Journal Co. v. Federal*

Radio Commission, 1931, 48 F.2d 461, 60 App.D.C. 92.

This chapter contemplates the regulation of interstate wire communication from its inception to its completion. *U. S. v. American Telephone & Telegraph Co.*, D.C.N.Y.1911, 57 F.Supp. 451, affirmed 65 S.Ct. 1401, 325 U.S. 537, 89 L.Ed. 1961.

The purpose of federal occupation of the entire field of regulation of interstate business of telegraph companies was to insure uniformity of regulation. *Western Union Telegraph Co. v. King*, 1939, 6 S.Ct. 268, 61 Ga.App. 537.

4. State regulation

This chapter does not preclude states from exercise of their police powers in use of land and buildings, on theory of interference with interstate commerce, in absence of actual or implied regulations to the contrary. *Kroeger v. Stahl*, D.C.N.J.1957, 119 F.Supp. 403, affirmed 218 F.2d 121.

5. Public convenience and necessity

This chapter does not create private rights. *WADE, Inc. v. Barth Broadcast- ing Corp.*, D.C.N.Y.1961, 199 F.Supp. 753.

The standard of "public convenience and necessity" prescribed by this chapter for introduction or discontinuance of service is to be so construed as to secure for the public the broad aims of this chapter as set forth in this section. *W. C. Davidson, Commercial Telegraphers' Union, A. F. of L. v. U. S.*, D.C.D.C. 1949, 87 F.Supp. 324, affirmed 70 S.Ct. 118, 338 U.S. 561, 94 L.Ed. 529.

§ 152. Application of chapter

(a) The provisions of this chapter shall apply to all interstate and foreign communication by wire or radio and all interstate and foreign transmission of energy by radio, which originates and/or is received within the United States, and to all persons engaged within the United States in such communication or such transmission of energy by radio, and to the licensing and regulating of all radio stations as hereinafter provided; but it shall not apply to persons engaged in wire or radio communication or transmission in the Canal Zone, or to wire or radio communication or transmission wholly within the Canal Zone.

(b) Subject to the provisions of section 301 of this title, nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices,

- Sec.
543. Modification of franchise obligations—C'd from one service tier to another or other offering of service.
- (e) Requirements for services relating to public, educational, or governmental access.
- (f) "Commercially impracticable" defined.
546. Renewal.
- (a) Commencement of proceedings; time; public notice and participation; purpose.
- (b) Submission of renewal proposals; contents; time.
- (c) Notice of proposal; renewal; preliminary assessment of nonrenewal; administrative review; issues; notice and opportunity for hearing; transcript; written decision.
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- (f) Finality of administrative decision.
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PART IV—MISCELLANEOUS PROVISIONS

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- (b) Collection of personally identifiable information using cable system.
- (c) Disclosure of personally identifiable information.
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- (f) Civil action in United States district court; damages; attorney's fees and costs; nonexclusive nature of remedy.
- (g) Regulation by States or franchising authorities.
- (h) Disclosure of information to governmental entity pursuant to court order.
552. Consumer protection.
- (a) Inclusion of enforcement provisions in franchise.
- (b) Enforcement powers of franchising authority.
- (c) Regulation by States or franchising authorities not preempted.
553. Unauthorized reception of cable service.
- (a) Unauthorized interception or receipt or assistance in intercepting or receiving service; definition.
- (b) Penalties for willful violation.
- (c) Civil action in district court; injunctions; damages; attorney's fees and costs; regulation by States or franchising authorities.
554. Equal employment opportunity.
- (a) Entities within scope of coverage.
- (b) Discrimination prohibited.
- (c) Equal opportunity programs; establishment; maintenance; execution; terms.
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554. Equal employment opportunity—Cont'd cal report; notice and comment on amendments.
- (e) Annual certification of compliance; periodic investigation of employment practices.
- (f) Substantial failure to comply; penalties; notice to public and franchising authorities.
- (g) Discrimination complaints; investigation; enforcement.
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555. Judicial proceedings.
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- (a) Regulation by States, political subdivisions, State and local agencies, and franchising authorities.
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- (c) Preemption.
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605. Unauthorized publication or use of communications.
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- (b) Exceptions.
- (c) Definitions.
- (d) Penalties; civil actions; remedies; attorney's fees and costs; computation of damages; regulation by State and local authorities.
- (e) Rights, obligations and liabilities under other laws unaffected.
611. Telecommunications Policy Study Commission.
- (a) Establishment; functions.
- (b) Membership; chairmen.
- (c) Report to Congress, President and Federal Communications Commission; termination of Telecommunications Policy Study Commission.
- (d) Compensation and travel expenses of members; appointment and compensation of staff.
- (e) Contracts; public hearings, forums, and other meetings.
- (f) Cooperation of Federal departments, agencies and instrumentalities with Commission; transmission of necessary information to Commission.
- (g) Authorization of appropriations.
- (h) Authority co-extensive with appropriation Acts.
- (i) Federal Communications Commission proceedings or activities unaffected.
610. Telephone service for the disabled.
- (a) Establishment of regulations.
- (b) Internal means for effective use of essential telephone with hearing aids.
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610. Telephone service for the disabled—Cont'd
- (e) Costs and benefits; encouragement of use of currently available technology.
- (f) Rulemaking to be completed by January 3, 1984; retrofitting not required; exception.

- Sec.
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SUBCHAPTER I—GENERAL PROVISIONS

§ 151. Purposes of chapter; Federal Communications Commission created

Study of Telecommunications and Information Goals. Pub.L. 97-259, Title II, § 202, Sept. 13, 1982, 96 Stat. 1099, provide: that:

"(a) The National Telecommunications and Information Administration shall conduct a comprehensive study of the long-range international telecommunications and information goals of the United States, the specific international telecommunications and information policies necessary to promote those goals and the strategies that will ensure that the United States achieves them. The Administration shall further conduct a review of the structures, procedures, and mechanisms which are utilized by the United States to develop international telecommunications and information policy.

"(b) In any study or review conducted pursuant to this section, the National Telecommunications and Information Administration shall not make public information regarding usage or traffic patterns which would damage United States commercial interests. Any such study or review shall be limited to international telecommunications policies or to domestic telecommunications issues which directly affect such policies."

Cross References

Commercial space launch program, authority of Federal Communications Commission as not affected by, see section 2603 of Title 49, Transportation.

Land remote-sensing commercialization program, authority of Federal Communications Commission as not affected by, see section 4245 of Title 15, Commerce and Trade.

West's Federal Practice Manual

Federal Communications Commission, see §§ 32, 3401 et seq.

Code of Federal Regulations

Access charges, see 47 CFR 69.1 et seq.
Amateur radio services, see 47 CFR 97.1 et seq.
Aviation services, see 47 CFR 87.1 et seq.
Cable television relay services, see 47 CFR 78.1 et seq.

Cable television services, see 47 CFR 76.1 et seq.

Disaster communications service, see 47 CFR 99.1 et seq.

Miscellaneous rules relating to common carriers, see 47 CFR 64.1 et seq.

Organization of Federal Communications Commission, see 47 CFR 0.1 et seq.

Practice and procedure before Federal Communications Commission, see 47 CFR 1.1 et seq.

Radio broadcast services, see 47 CFR 73.1 et seq.

Safety and special radio services, see 47 CFR 81.1 et seq.

Stations on shipboard in maritime services, see 47 CFR 83.1 et seq.

Law Review Commentaries

Home satellite dish antenna. 23 Washburn L.J. 66 (1985).

Indecency on cable television—a barren battleground for regulation of programming content. Vicky Hallick Robbins, 15 St. Mary's L.J. 417 (1984).

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C.J.S. Telegraphs, Telephones, Radio, and Television §§ 74 et seq., 298 to 301, 316.

Notes of Decisions

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Private rights 7

1. Constitutionality

Regulation by Commission of microwave fed and off-the-air community antenna television systems is not a violation of the right to free speech. *Black Hills Video Corp. v. FCC*, C.A.Mo.1968, 399 F.2d 65.

In enacting this chapter Congress was to be deemed to have exercised its power within constitutional limitations. *Red Lion Broadcasting Co. v. FCC*, 1967, 381 F.2d 908, 127 U.S.App.D.C. 129, affirmed 89 S.Ct. 1794, 395 U.S. 367, 23 L.Ed.2d 371.

Congress did not pre-empt adjustment of property rights in communication field by passage of this chapter. *Cable Vision, Inc. v. KUTV, Inc.*, C.A.Idaho.1964, 335 F.2d 348, certiorari denied 85 S.Ct. 700, 379 U.S. 989, 13 L.Ed.2d 609.

2. Construction

Goal of nationwide communications network need not, in all cases, take precedence over specific provisions of this chapter, especially where the Commission jurisdiction is explicitly denied under a particular provision. *National Ass'n of Regulatory Utility Com'rs v. FCC*, 1976, 533 F.2d 601, 174 U.S.App.D.C. 374.

This chapter must be construed in light of needs for comprehensive regulations and the practical difficulties inhering in state-by-state regulations of parts of an organic whole. *General Tel. Co. of Cal. v. FCC*, 1969, 413 F.2d 1301, 134 U.S.App.

D.C. 116, certiorari denied 90 S.Ct. 173, 178, 396 U.S. 888, 24 L.Ed.2d 163.

In order to ensure that Federal Communications Commission, through its discretion and expertise, will be able to foster beneficial and proper interpretations and applications of this chapter, this chapter is generally viewed as not having created implied private rights of action, either for damages or for injunctive relief. *New England Tel. and Tel. Co. v. Public Utilities Com'n of Maine*, D.C.Me.1983, 565 F.Supp. 949.

3. Purpose

In enacting this chapter, Congress meant to confer broad authority on the Commission so as to maintain, through appropriate administrative control, a grip on the dynamic aspects of radio transmission. *F.C.C. v. Midwest Video Corp.*, 1979, 99 S.Ct. 1435, 440 U.S. 689, 59 L.Ed.2d 692.

It was the intent of Congress under the provisions of this chapter to permit private broadcasting to develop with the widest journalistic freedom consistent with its public obligations. *Columbia Broadcasting System, Inc. v. Democratic Nat. Committee*, Dist.Col.1973, 93 S.Ct. 2080, 412 U.S. 94, 36 L.Ed.2d 772.

Commission's legitimate concern in regulation of community antenna television is not limited to controlling competitive impact CATV may have on broadcast services, and the Commission has authority to regulate CATV with view to promote objectives for which Commission had been assigned jurisdiction over broadcasting. (Per Mr. Justice Brennan with three Justices joining and The Chief Justice concurring in result.) *U.S. v. Midwest Video Corp.*, 1972, 92 S.Ct. 1860, 406 U.S. 649, 32 L.Ed.2d 390, rehearing denied 93 S.Ct. 95, 409 U.S. 898, 34 L.Ed.2d 157.

If goal of this chapter of providing uniform, efficient service is ever to be realized, FCC must be free to strike down the costly and inefficient burdens on interstate communications which are sometimes imposed by state regulation. *National Ass'n of Regulatory Utility Com'n v. F.C.C.*, 1984, 746 F.2d 1492, 241 U.S.App.D.C. 175.

In determining mandate of this chapter, court of appeals must focus on language of chapter itself, with due deference to Commission's interpretation of its own organic law. *Black Citizens for a Fair Media v. F.C.C.*, 1983, 719 F.2d 407, 231 U.S.App.D.C. 163, certiorari denied 104 S.Ct. 3545.

This chapter should not be turned into mechanism whereby participants in joint communications problems can force Commission to arbitrate contractual disputes over division of residual revenues from their joint venture; purpose of this chapter is to protect public interest rather than providing forum for settlement of private disputes. *United Tel. Co. of Carolinas, Inc. v. F.C.C.*, 1977, 559 F.2d 720, 182 U.S.App.D.C. 99.

Congress, rather than purporting to transfer its legislative power to the unbounded discretion of the Commission, intended a specific statutory basis for the authority of the Commission. *American Tel. & Tel. Co. v. F.C.C.*, C.A.2, 1973, 487 F.2d 865.

This chapter was designed to endow the Commission with sufficiently elastic powers such that it could readily accommodate dynamic new devel-

opments in field of communications. *General Tel. Co. of Southwest v. U.S.*, C.A.Tex.1971, 449 F.2d 846.

This chapter was not intended to prevent a telephone company from installing, repairing or testing its lines. *Bufalino v. Michigan Bell Tel. Co.*, C.A.Mich.1968, 404 F.2d 1023, certiorari denied 69 S.Ct. 1468, 394 U.S. 987, 22 L.Ed.2d 763.

This chapter is primarily designed to protect customers against unjust and discriminatory services rather than to protect competitors against unfair competitive practices. *MCI Communications Corp. v. American Tel. & Tel. Co.*, D.C.Ill. 1978, 462 F.Supp. 1072.

This chapter does not create any private rights; it is merely an act regulating commerce and even the granting of a license under authority of this chapter does not give any person anything in nature of a property right. *Comtronics, Inc. v. Puerto Rico Tel. Co.*, D.C.Puerto Rico 1975, 409 F.Supp. 800, affirmed 553 F.2d 701.

This chapter was intended only to establish the conditions on which communications services of an interstate nature are lawfully provided and, thus only regulates the bilateral relationship between the carrier and its subscriber; this chapter does not impose any duty on a carrier with respect to the manufacturer of telephone terminal equipment. *Id.*

Primary purpose of this chapter was to vest in single governmental agency power and means to regulate broadcasting industry in such comprehensive manner as to assure uniformity and constructive growth. *Greater Fremont, Inc. v. City of Fremont*, D.C.Ohio 1968, 302 F.Supp. 652.

Fundamental rationale for this chapter is based on fact that number of available radio frequencies is finite and that therefore Congress had to exercise its power over interstate commerce to allocate available frequencies and control their use. *Schroeder v. Municipal Court of Los Cerritos Judicial Dist.*, 1977, 141 Cal.Rptr. 85, 73 C.A.3d 841, appeal dismissed 98 S.Ct. 1641, 435 U.S. 990, 56 L.Ed.2d 81.

4. State regulation

In light of recently promulgated Federal Communications Commission declaratory ruling establishing limited preemption policy in regard to municipal zoning regulation of amateur radio antennas, amateur radio operator's action challenging constitutionality of city's ban upon erection of amateur radio station antennas would be remanded for reconsideration and possible reconciliation of FCC policy with city's zoning plan. *Therms v. City of Lakeside Park, Ky.*, C.A.6 (Ky.) 1986, 779 F.2d 1187.

Had Federal Communications Commission taken specific action to preempt zoning control of amateur radio antennas, such action would be subject to judicial scrutiny as to whether it was within the agency's authority and was exercised reasonably. *Guschte v. City of Oklahoma City*, C.A.10 (Okla.) 1985, 763 F.2d 379.

Congress did not intend to allow inconsistent state regulations to frustrate its goal of developing a unified national communication service. *National Ass'n of Regulatory Utility Com'n v. F.C.C.*, 1984, 746 F.2d 1492, 241 U.S.App.D.C. 175.

This chapter preempts the field in the regulation of interstate communications. *Comtronics, Inc. v. Puerto Rico Tel. Co.*, D.C.Puerto Rico 1975, 409 F.Supp. 800, affirmed 553 F.2d 701.

Police regulation prohibiting possession of police radar detector in motor vehicle was not preempted by this chapter. *Smith v. District of Columbia*, D.C.App.1981, 436 A.2d 53.

Federal legislation has preempted local regulation of radio transmissions including assignment of frequencies, interference phenomena and content of broadcast material, but has not foreclosed all local regulation of microwave transmissions. *Schroeder v. Municipal Court of Los Cerritos Judicial Dist.*, 1977, 141 Cal.Rptr. 85, 78 C.A.3d 841, appeal dismissed 98 S.Ct. 1641, 435 U.S. 990, 56 L.Ed.2d 81.

Subscribers' action against provider of long-distance telephone service based on fraud and deceptive advertising was not preempted by Federal Communications Act [47 U.S.C.A. § 151 et seq.] where issues raised were ones of public disclosure and truthful advertising and did not challenge defendant's right to provide communication service in the manner that it did. *Kellerman v. MCI Telecommunications Corp.*, 1985, 479 N.E.2d 1057, 89 Ill.Dec. 51, 134 Ill.App.3d 71.

This chapter did not preempt local regulation of height of radio antenna. *Sleeper v. Old King's Highway Regional Historic Dist. Commission*, 1981, 417 N.E.2d 987, 11 Mass.App. 371.

Although Commission has preempted state control over terms and conditions governing interconnection of customer-provided telephone equipment to the nationwide telephone network, Commission's action does not completely foreclose state regulation so long as state action does not derogate the interstate rulings; a state may provide additional options to customers with respect to interconnection provided they are alternatives to, rather than substitutes for, requirements specified in interstate tariffs and provided that such regulations accomplish the protective objectives of the interstate regulation and in no way permit interference with or impairment of interstate services. *Sherdon v. Dann*, 1975, 229 N.W.2d 531, 193 Neb. 768.

Congress granted Commission sole and exclusive jurisdiction over interstate and foreign telephone service, including jurisdiction to regulate interconnection of customer-provided equipment with common carrier facilities for interstate and foreign service; however, this chapter reserves to the states jurisdiction over intrastate telephone and telegraph communications. *Id.*

This chapter does not sanction state regulation where it encroaches on Commission's statutory authority. *Southern Pacific Communications Co. v. Corporation Commission*, Okl.1978, 586 P.2d 327.

Code 1950, § 46.1-198.1 making it unlawful for any person to operate a motor vehicle upon highways of state when vehicle is equipped with any device or mechanism to detect emission of radio microwaves employed by police to measure speed of motor vehicles does not conflict with federal regulatory system established by this chapter, but complements system by protecting effectiveness of essential police radio communication, and is not violative of U.S.C.A. Const. art. 6, cl. 2 as relating

to a preempted field. *Crenshaw v. Com.*, 1978, 249 S.E.2d 243, 219 Va. 38, 17 A.L.R.4th 1328.

Radio communications services are essentially intrastate in nature, and it was Congressional intent to reserve to several states right to regulate such intrastate services rather than to preempt field. *Radio Tel. Communications, Inc. v. South-eastern Tel. Co.*, Fla.1964, 170 So.2d 377.

6. Authority of Commission

Commission's legitimate concern in regulation of community antenna television is not limited to controlling competitive impact CATV may have on broadcast services, and the Commission has authority to regulate CATV with view to promote objectives for which Commission had been assigned jurisdiction over broadcasting. (Per Mr. Justice Brennan with three Justices joining and The Chief Justice concurring in result.) *U.S. v. Midwest Video Corp.*, 1972, 92 S.Ct. 1860, 406 U.S. 649, 32 L.Ed.2d 390, rehearing denied 93 S.Ct. 95, 409 U.S. 898, 34 L.Ed.2d 157.

Authority of Commission to regulate broadcasting and other communications is derived from this chapter as amended. *U.S. v. Southwestern Cable Co.*, Cal.1968, 88 S.Ct. 1994, 392 U.S. 157, 20 L.Ed.2d 1001.

Congress in enacting this chapter acted in a field that was demonstrably both new and dynamic, and Congress therefore gave Commission a comprehensive mandate with not niggardly but expensive powers. *Id.*

The Commission was expected to serve as the single government agency with unified jurisdiction and regulatory authority over all forms of electrical communication, whether by telephone, telegraph, cable, or radio, and Commission was for such purpose given broad authority by this chapter. *Id.*

Nothing in this chapter empowers Commission to forgive proven violations of this chapter's clear prohibitions of unjust, unreasonable, and discriminatory rates. *MCI Telecommunications Corp. v. F.C.C.*, 1983, 712 F.2d 517, 229 U.S.App.D.C. 203.

Commission's ability to regulate cable television is very broad and not circumscribed by the rules of subchapters II and III of this chapter. *American Civil Liberties Union v. F.C.C.*, C.A.9, 1975, 523 F.2d 1344.

Commission is not restricted to a course of action which has been dictated by requirements of the transportation industry. *General Tel. Co. of Southwest v. U.S.*, C.A.Tex.1971, 449 F.2d 846.

Action of Commission in waiving hearings required under the then effective regulations and authorizing beginning of operation of seven CATV systems in market which, while near bottom of top 100 television markets in country, was unique because it covered a considerable area without any large cities and had substantial population not reachable by CATV was appropriate and did not constitute any injustice. *Paducah Newspapers, Inc. v. F.C.C.*, 1969, 414 F.2d 1183, 134 U.S.App.D.C. 287.

Interpretation by Commission of its statutory grant and its applications are entitled to great deference. *General Tel. Co. of Cal. v. F.C.C.*, 1969, 413 F.2d 390, 134 U.S.App.D.C. 116, cert.

tionari denied 90 S.Ct. 173, 178, 396 U.S. 888, 24 L.Ed.2d 163.

7. Private rights

Mandate that Federal Communications Commission allocate spectrum in manner that promotes safety of life and property does not grant public safety broadcasters absolute right to particular spot in spectrum, but it does require that Commission give their needs priority over those of commercial broadcasters such as direct broadcast satellite service. *National Ass'n of Broadcasters v. F.C.C.*, 1984, 740 F.2d 1190, 239 U.S.App.D.C. 87.

§ 152. Application of chapter

(a) The provisions of this chapter shall apply to all interstate and foreign communication by wire or radio and all interstate and foreign transmission of energy by radio, which originates and/or is received within the United States, and to all persons engaged within the United States in such communication or such transmission of energy by radio, and to the licensing and regulating of all radio stations as hereinafter provided; but it shall not apply to persons engaged in wire or radio communication or transmission in the Canal Zone, or to wire or radio communication or transmission wholly within the Canal Zone. The provisions of this chapter shall apply with respect to cable service, to all persons engaged within the United States in providing such service, and to the facilities of cable operators which relate to such service, as provided in subchapter V-A of this chapter.

(b) Except as provided in section 224 of this title and subject to the provisions of section 301 of this title and subchapter V-A of this chapter, nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier, or (2) any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (3) any carrier engaged in interstate or foreign communication solely through connection by radio, or by wire and radio, with facilities, located in an adjoining State or in Canada or Mexico (where they adjoin the State in which the carrier is doing business), of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (4) any carrier to which clause (2) or clause (3) of this subsection would be applicable except for furnishing interstate mobile radio communication service or radio communication service to mobile stations on land vehicles in Canada or Mexico; except that sections 201 to 205 of this title shall, except as otherwise provided therein, apply to carriers described in clauses (2), (3), and (4) of this subsection.

(As amended Feb. 21, 1978, Pub.L. 95-234, § 5, 92 Stat. 35; Oct. 30, 1984, Pub.L. 98-549, § 8(a), 98 Stat. 2801.)

1984 Amendment. Subsec. (a). Pub.L. 98-549, § 3(a)(1), added provision making this chapter applicable with respect to cable service, to all persons engaged within the United States in providing such service, and to the facilities of cable persons which relate to such service, as provided in subchapter V-A of this chapter.

Subsec. (b). Pub.L. 98-549, § 3(a)(2), substituted "section 301 of this title and subchapter V-A of this chapter" for "section 301 of this title".

1978 Amendment. Subsec. (b). Pub.L. 95-234 substituted "Except as provided in section 224 of this title and subject" for "Subject".

Effective Date of 1984 Amendment. Amendment by Pub.L. 98-549 to take effect 60 days after Oct. 30, 1984, except where otherwise expressly

This chapter does not create private rights. *Moro v. Telemundo, Incorporated*, D.C.Puerto Rico 1974, 387 F.Supp. 920.

8. New technology

Phrase "so far as possible" as used in this section providing that Commission is to make available, so far as possible, to all people of the United States a rapid and worldwide wire and radio communications services expresses the intent that available and reasonable new technology be applied in achieving the mandated goal. *U.S. v. Western Elec. Co., Inc.*, D.C.N.J.1981, 531 F.Supp. 894.

Legislative History. For legislative history and purpose of Pub.L. 95-234, see 1978 U.S. Code Cong. and Adm. News, p. 109. See, also, Pub.L. 98-549, 1984 U.S. Code Cong. and Adm. News, p. 4633.

Code of Federal Regulations

Access charges, see 47 CFR 69.1 et seq.
Amateur radio services, see 47 CFR 97.1 et seq.
Aviation services, see 47 CFR 87.1 et seq.
Cable television service, see 47 CFR 76.1 et seq.
Commission organization—Delegation of authority, see 47 CFR 0.201 et seq.
Disaster communications service, see 47 CFR 99.1 et seq.
Extension of lines and discontinuance of service by carriers, see 47 CFR 63.01 et seq.
Public mobile radio services, see 47 CFR 22.0 et seq.

Radio broadcast services, see 47 CFR 73.1 et seq.

Safety and special radio services, see 47 CFR 81.1 et seq.

Stations on shipboard in maritime services, see 47 CFR 83.1 et seq.

Law Review Commentaries

Obscenity, indecency and the excitable boy: Is pay cable different? 1 Cooley L.Rev. 391 (1983).

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1. Construction

Words "charges," "classifications," and "practices," as used in section of Communications Act which provides that nothing in this chapter shall be construed to apply or give Federal Communication Commission jurisdiction with respect to charges, classifications, and practices for or in connection with intrastate communication service were not intended to refer only to "customer charges" for specific services, but rather, those words are terms of art that are to be interpreted by reference to trade to which they apply, and thus, embrace depreciation. *Louisiana Public Service Com'n v. F.C.C.*, 1986, 106 S.Ct. 1890, 90 L.Ed.2d 369.

Nothing in provision of this chapter that the provisions of this chapter are applicable to "all interstate and foreign communication by wire or radio", and in surrounding language, or in history or purposes of this chapter limits authority of Commission to those activities and forms of communication that are specifically described by this chapter's other provisions. *U.S. v. Southwestern*

Cable Co., Cal.1968, 83 S.Ct. 1994, 392 U.S. 157, 20 L.Ed.2d 1001.

Commission pay cable television rules prohibiting pay exhibition of feature films more than three but less than ten years old, specific sports events shown on broadcast television within previous five years, more than minimum number of nonspecific sports events which had not been broadcast in any of the five preceding years, and all series programs, and which prohibited commercial advertising in conjunction with pay exhibition programming and limited overall number of hours of pay operations which could be devoted of sports and feature films to 90 percent of total pay operations, were not authorized under this section. *Home Box Office, Inc. v. F.C.C.*, 1977, 567 F.2d 9, 183 U.S.App.D.C. 142, certiorari denied 98 S.Ct. 111, 434 U.S. 829, 54 L.Ed.2d 89.

Although agency is entitled to great deference in the construction of its own statute, that adage is not a license to construe statutory language in any manner whatever, to conjure up powers with no clear antecedents in statute or judicial construction, or to ignore explicit statutory limitations on the agency's authority. *National Ass'n of Regulatory Utility Com'rs v. F.C.C.*, 1976, 533 F.2d 601, 174 U.S.App.D.C. 374.

Where complaint did not allege interstate and foreign communication by radio or interstate and foreign transmission of energy by radio or interstate and foreign communication by wire, subject signal system test facility was outside scope of this chapter and there was no requirement for prior authorization of facility by Commission. *State Committee to Stop Sanguine v. Laird*, D.C.Wis. 1970, 317 F.Supp. 664.

2. Law governing

Questions concerning duties, charges and liabilities of telegraph or telephone companies with respect to interstate communications services are to be governed solely by federal law, and states are precluded from acting in such area. *Ivy Broadcasting Co. v. American Tel. & Tel. Co.*, C.A.N.Y.1968, 391 F.2d 486.

3. State statutes

Oklahoma ban upon advertising of alcoholic beverages was in conflict with specific federal regulations including the Federal Communications Commission's so called "must-carry" rules. Commission regulations prohibiting deletion or alteration of any portion of out-of-state television broadcast signals, including commercial advertising, and Commission's policy that state regulation of "pay cable" services is completely precluded by this title. *Capital Cities Cable, Inc. v. Crisp*, Okl.1984, 104 S.Ct. 2694.

While this section excluding from federal jurisdiction matters for or in connection with intrastate communication service deprives Commission of power over local services, facilities and disputes that in their nature and effect are separable from and do not substantially affect interstate communications, this section does not sanction any state regulation, formally restrictive only of intrastate communication, that in effect encroaches substantially upon Commission's authority to regulate matters for or in connection with interstate communication services. *Puerto Rico Tel. Co. v. F.C.C.*, C.A.1, 1977, 551 F.2d 624.

p. 37, footnote #93: See New York's approach to installation + maintenance.

- no shifting of rate charges to non low-income users

pg. 40, footnote 100: Life line assistance estimated to be ~ \$18 / year.

pg. 40, footnote 102: See non-rate-related ways to assist low-income customers.

pg. 42, #65: SLC (subscriber line charge) assistance does require matching state \$.

(- adopted Dec 1985)

Latest assistance program (installation charges etc, does not require state matching \$).

p. 47,
#73 + 74:

Return to Frick

2777

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 87J-1

In the Matter of	)	
	)	
MTS and WATS Market Structure	)	CC Docket No. 78-72
	)	
Amendment of Part 67 of the	)	CC Docket No. 80-286
Commission's Rules and	)	
Establishment of a Joint Board	)	

RECOMMENDED DECISION AND ORDER

Adopted: March 12, 1987; Released: March 31, 1987

By the Federal-State Joint Board:

I. Introduction

1. Pursuant to the request of the Federal Communications Commission (Commission) in its Further Notice of Proposed Rulemaking (Further Notice),¹ we present our recommendations concerning the effects of the initial implementation of (1) subscriber line charges (or SLCs), (2) the federal lifeline assistance program, and (3) the current high cost assistance measures on the primary goals of the access charge proceeding and interexchange competition. Preserving universal service, promoting economic efficiency, eliminating service pricing discrimination, and deterring uneconomic bypass are the four longstanding goals identified in this proceeding.² We also present our recommendations for further action the Commission should take to achieve these goals. As a part of this proposal for further action, we also make certain recommendations regarding

1 Further Notice of Proposed Rulemaking, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, FCC 86-305 (released July 2, 1986); summarized at 51 Fed. Reg. 27,426 (1986).

2 In that proceeding, the Commission also stated that the access charge plan "represented an effort to preserve an opportunity for fair competition during a transition period in which [it] and the industry work to eliminate existing inequalities in interconnection options offered interexchange carriers." First Reconsideration Order, infra note 4, at para. 3.

modifications to the federal mandatory pool for carrier common line costs.

II. Overview of Recommendations

2. In supporting the implementation of limited subscriber line charges along with low income and high cost assistance measures two years ago, we recognized that our recommendations were a cautious step in addressing the problems inherent in the existing non-traffic sensitive (NTS) cost recovery mechanisms. We stated at that time that we would carefully evaluate the effects of these recommendations before proceeding with any further changes. The Commission's Further Notice initiated the reexamination of these three issues and asked for recommendations in a unified package for further action in these areas. As several outstanding petitions raised questions regarding possible modifications to the mandatory common line pooling system, the Commission also requested recommendations for future action in this related area.

3. In summary, we find that the interim measures we proposed and the Commission adopted in 1984 have furthered the four goals of this proceeding. We further find that certain additional steps are warranted at this time. In response to the Commission's request for proposed modifications to its current SLCs, we now recommend a permanent solution to the issue of the proper approach to the recovery of interstate NTS loop costs. We recommend that the Commission increase the current SLC to \$2.60 on June 1, 1987, \$3.20 on September 1, 1988, and \$3.50 on April 1, 1989, or the amount with which the local exchange carriers (or LECs) will recover their full interstate NTS loop costs, whichever is less.³ Prior to any increases in 1988 and 1989, we recommend that the members of the Joint Board and the Commission conduct a 90-day study and review of the impact of SLCs to date. We recommend that the Commission report to Congress and state regulators on the results of these reviews.

4. Maintaining SLCs at the \$3.50 cap will assure that interexchange carriers (or IXC) continue to pay, on a nationwide basis, an appropriate portion of NTS loop costs. In conjunction with this action, we recommend that the Commission ensure that all of the cost savings resulting from this final implementation of SLCs be flowed through to customers in the form of lower interstate toll rates. We note that in this Order we do not recommend that the Commission adopt in toto any of the plans presented by parties in the record. Moreover, our recommendation that SLCs

³ We also recommend that the flat-rate charge for embedded Centrex lines be increased to \$4.00 on June 1, 1987, to \$5.00 on September 1, 1988, and to \$6.00 on April 1, 1989, or the multi-line business subscriber line charge, which recovers the LEC's full interstate NTS loop costs, whichever is less.

remain at \$3.50 is a significant change from the Commission's original plan to recover all interstate NTS costs from end users.

5. In addition, we recommend that the current federal lifeline assistance program continue as established and that the matching federal benefits increase with the recommended increase in SLCs. We also recommend that the Commission implement an additional lifeline program that will provide assistance to offset the costs of initial connection to the telephone network for low income households not presently on the network. Specifically, we recommend a two-part program: first, federal assistance sufficient to pay one-half of the charges, up to \$30.00, assessed for commencing service would be provided to qualifying subscribers; and second, where a local exchange carrier offers a deferred payment plan for service commencement charges and it does not assess the subscriber any interest, federal assistance will be available to that LEC to cover the interest costs on an amount up to \$200.00. We believe that this additional lifeline assistance program will provide an opportunity for those 5 million low income households currently without telephone service to obtain that service.

6. Further, we recommend that the Commission retarget the present formula for high cost assistance to direct more assistance to smaller and medium-sized LECs. Finally, we recommend that the Commission modify its current mandatory pooling requirements to implement a revised pooling system that retains the benefits of the present system while permitting LECs needed flexibility.

7. We believe that the overall effect of the recommendations presented herein achieves a proper balance among the goals of this proceeding. Our recommendation to increase SLCs will provide additional economic efficiency gains and further mitigate bypass. In addition, the limited increase in SLCs allows for the introduction of needed changes in the mandatory common line pool by reducing the disparity among carrier common line (or CCL) rates that could cause undue pressure to deaverage interstate toll rates. At the same time that we are recommending these measures to increase network efficiency, we propose changes in the high cost and lifeline assistance programs that will promote our universal service goal, by further protecting and benefiting small local high cost exchange carriers in maintaining reasonable rates, and assisting low income customers both in initially connecting to the network and in affording the SLCs and local service charges.

8. In order to ensure that our proposals achieve the desired results, we recommend an expanded monitoring effort by the Commission and the Joint Board. We recommend that this comprehensive monitoring proposal, which will involve frequent reports to Congress and state regulatory bodies, be described in detail in a Recommended Decision and Order to follow.

III. Background

9. In a series of reconsideration orders in CC Docket No. 78-72, the Commission reviewed and revised aspects of its access charge plan adopted in the Access Charge Order.⁴ An important aspect of the access charge plan provided that a major portion of the local loop costs allocated to the interstate jurisdiction would be recovered directly from telephone subscribers through monthly flat-rate charges,⁵ and found that such fixed charges would achieve the primary goals of the access charge proceeding.

10. In the Second Reconsideration Order, the Commission deferred the implementation of the residential and single-line business subscriber line charges until 1985 pending the completion of a number of proceedings.⁶

4 The Access Charge Order established a system of tariffed access charges through which local exchange carriers recover most of their costs assigned to the interstate jurisdiction through the separations process. Third Report and Order, MTS and WATS Market Structure, CC Docket No. 78-72, 93 FCC 2d 241 (1983) (hereinafter the Access Charge Order), modified on reconsideration, 97 FCC 2d 682 (1983) (hereinafter First Reconsideration Order), modified on reconsideration, 97 FCC 834 (1984) (hereinafter Second Reconsideration Order), aff'd in principal part and remanded in part, National Ass'n of Regulatory Utility Comm'rs v. FCC, 737 F.2d 1095 (D.C. Cir. 1984), cert. denied, 105 S. Ct. 1224, 1225 (1985), modified on further reconsideration, 99 FCC 2d 708 (1984), 101 FCC 2d 1222 (1985), aff'd on further reconsideration, 102 FCC 2d 849 (1985), petitions for review pending, People of California v. FCC, No. 84-1124 (D.C. Cir., petition filed April 2, 1984), and AT&T v. FCC, No. 84-1148 (D.C. Cir., petition filed April 16, 1984).

5 The Commission's initial decision provided that a substantial portion of fixed exchange plant costs that are assigned to interstate services should ultimately be recovered through flat-rate per line charges that are assessed upon end users. However, it also noted the possible disruptive effects of immediate flat-rate charges for the entire end user portion and therefore provided that in 1984, the first year of the plan, LECs would have to charge a minimum flat fee of \$2.00 per line per month for residential subscribers and \$4.00 per line per month for business subscribers. The plan further provided a five-year transition period for recovery of all interstate NTS loop costs from end users except for high cost assistance, customer premises equipment (CPE), and inside wire costs, which would be recovered from the pooled CCL charges. See generally

These proceedings included an examination of the SLCs and the transition mechanism for implementing them, possible assistance programs for low income households, and assistance measures for subscribers in high cost study areas.⁷ Pursuant to the decision to examine these issues, the Commission issued a Further Notice of Proposed Rulemaking in which it requested recommendations from this Federal-State Joint Board (Joint Board) regarding the implementation of residential and single-line business SLCs, possible exemptions or targeted assistance for low income subscribers, and more effective mechanisms to meet the needs of high cost telephone LECs for additional assistance.⁸

11. In November 1984, we issued our recommendations on the various issues referred to us.⁹ In our Recommended Decision, we formulated a three-part plan. First, we recommended that limited residential and single-line business SLCs of \$1.00 per line per month be implemented in June 1985, to be increased to \$2.00 per line per month in June 1986.¹⁰ Second, we recommended a two-phase program for assistance to

Access Charge Order note 4, at paras. 124-49.

6 In the First Reconsideration Order, the Commission provided that initial subscriber line charges of \$2.00 per month for residential and single-line customers would be implemented in 1984, with SLCs increasing to a \$3.00 cap in 1985 and a \$4.00 in 1986, where the charge would remain through 1989. The plan also established subscriber line charges for multi-line business customers equal to \$6.00 per month or the full interstate allocation of NTS loop costs for the study area involved. In the Second Reconsideration Order, however, the Commission did not defer the implementation of multi-line business SLCs, finding that the charges would not be so burdensome as to cause businesses to forego telephone service. These charges became effective in May 1984. See generally Recommended Decision, infra note 9, at paras. 5-12.

7 The other proceedings that the Commission initiated in the Second Reconsideration Order were: (1) a further inquiry into the effects on universal service of SLCs and federal decisions in general; and (2) a further inquiry to compile more detailed data on the extent and nature of bypass of the telephone network. All of the proceedings were completed in 1985. See Further Notice, supra note 1, at para. 3.

8 Further Notice of Proposed Rulemaking, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, 49 Fed. Reg. 18,318 (1984).

9 Recommended Decision and Order, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and

low income households. We established guidelines for a limited federal lifeline program, which provided a 50% reduction in the SLC for customers qualifying under a state-established lifeline program that was means-tested and subject to verification. We also recommended an expedited study to establish broader lifeline measures to assist low income households.¹¹ Third, we recommended retargeting the federal high cost assistance measures to provide additional assistance to telephone subscribers served by LECs with fewer than 50,000 access lines and those with particularly high MTS loop costs.¹² We recommended that SLCs remain at

80-286, 49 Fed. Reg. 48,325 (1984) (hereinafter Recommended Decision).

10 We also recommended that some flexibility be given to the LECs in the form of optional alternative tariff provisions to recover carrier common line costs in order to combat localized bypass problems. We further recommended that the Commission and Joint Board staff work closely with interested state public utility commissions to explore more comprehensive experimental tariffs for recovery of interstate MTS costs. See Recommended Decision, supra note 9, and Memorandum Opinion and Order, MTS and WATS Market Structure and Amendment to Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, 50 Fed. Reg. 13,028 (1985) (order establishing the procedures for filing optional alternative and experimental tariffs). Experimental tariffs were filed by the Florida Public Service Commission (Florida) on November 9, 1984, the Rochester Telephone Company (Rochester) on January 16, 1986, and the Illinois local exchange carriers (ILECs), on December 30, 1986. In June 1985, we found that the Florida plan, as then structured, would impose additional cost burdens on telephone subscribers in other states and recommended that Florida revise its plan. Recommended Decision and Order, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, FCC Memo No. 5328 (released June 25, 1985). The Rochester and ILEC petitions will be discussed in this proceeding. See infra note 77.

11 Pursuant to that study, we recommended broader lifeline measures that provided for federal benefits, which match state assistance, up to the full amount of the SLC, provided the state has a lifeline program that has been certified as meeting our general requirements that eligibility for such programs be means-tested and subject to verification. Our recommendations were adopted by the Commission in December 1985. Recommended Decision and Order, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, 50 Fed. Reg. 52,964 (1985); Decision and Order, MTS and WATS Market Structure and Amendment to Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, 51 Fed. Reg. 1371 (1986) (hereinafter Lifeline Order), aff'd on recon., 1 FCC Rcd 436 (1986) (hereinafter Lifeline Reconsideration Order).

\$2.00 until the completion of a further Joint Board proceeding to examine the effect of SLCs on universal service, economic efficiency, interexchange competition, and bypass.¹³ With a few minor changes and clarifications, the Commission adopted our recommendations.¹⁴

12. On July 2, 1986, the Commission issued its Further Notice asking this Joint Board to examine the effects of (1) SLCs, (2) the federal lifeline assistance program, and (3) the present measures to assist high cost telephone companies, on the primary goals of the access charge proceeding and interexchange competition. The Commission recognized that this Joint Board's previous recommendation on these issues involved integrated measures adopted to advance the four primary goals of the access charge proceeding and interexchange competition. It stated that the lifeline program and high cost assistance measures were integral parts of a cohesive package, and therefore must also be examined as part of the review of SLCs. In addition, the Commission requested our recommendations on possible modifications to the current provisions for mandatory nationwide pooling of common line costs and revenues.¹⁵

12 High cost assistance measures contained in Part 67 of the Commission's rules allocate an additional percentage of NTS loop costs to the interstate jurisdiction for LECs with higher than average NTS loop costs. 47 C.F.R. § 67.631 (1986). These measures are designed to reduce the intrastate cost allocation and keep local service rates lower than they otherwise would be. See Recommended Decision, supra note 9, at paras. 46-73. These measures are also described as the High Cost Factor or the Universal Service Factor in the Commission's rules, but are more commonly referred to as the high cost fund or universal service fund in Joint Board and Commission decisions. See 47 C.F.R. §§ 67.601 and 69.501(a) (1986). For additional discussion on high cost assistance see Further Notice, supra note 1, at para. 8.

13 Recommended Decision, supra note 9, at para. 2.

14 Decision and Order, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, 50 Fed. Reg. 939 (1985) (hereinafter Subscriber Line Charge Order).

15 The Commission has prescribed a nationwide mandatory pool for the interstate allocation of common line costs. See Access Charge Order, supra note 4, at 328; and infra paras. 112-116. Pursuant to Commission Rules, the recovery of the interstate portion of NTS loop costs is administered by the National Exchange Carrier Association (NECA). These rules also provide that these costs are assigned to the "common line element" and are recovered in part from end users through SLCs and in part from interexchange carriers through nationally uniform, per minute CCL charges. See 47 C.F.R. §§ 69.601-69.610 (1986). The CCL charge is the per minute charge paid by

13. In seeking public comment for our consideration of these issues, the Further Notice requested discussion on whether the original three-part plan presented in our recommendations has furthered the primary goals of this proceeding and what further steps, if any, should be taken to achieve these goals. Specifically, it asked for comments on: (1) whether the SLCs should be increased (and if so, to what level and on what schedule), modified in some fashion, or remain unchanged at their present level; (2) whether the federal lifeline program and high cost assistance measures presently in place reflect a properly targeted response to the need for assistance to low income subscribers and subscribers in high cost areas, and whether these programs should be modified, and in what manner; and (3) what alternatives may be available to the current mandatory pooling mechanisms used to recover the interstate allocation of NTS exchange costs. Finally, the Commission requested that we evaluate all of the issues discussed in the Further Notice, as well as the comments and replies filed in the record, and prepare recommendations for Commission consideration that will further achieve the goals described in the Access Charge Order.

IV. Subscriber Line Charges and NTS Cost Recovery

A. Comment Summary

14. The interexchange carriers that submitted comments in response to the Further Notice¹⁶ — AT&T, ALC Communications (ALC) and US Sprint — generally support subscriber line charges and argue that these charges should be increased. Specifically, the IXC's believe that implementation of the limited SLC represents a movement to more cost-based pricing, which has resulted in increased economic efficiency and a decrease in pricing disparities among services with no adverse effects on universal service.

15. The IXC's cite several major benefits from the limited SLCs presently in effect. They argue that in terms of eliminating unreasonable service pricing discrimination, the movement to SLCs has already allowed substantial reductions in the CCL rate charged interexchange carriers. This flat-rate recovery of interstate NTS costs from end users has resulted in a smaller differential between switched access rates and substitutes, such as special access. IXC's assert that the benefits of SLCs are demonstrated by the substantial increase in total minutes of use (or MOUs) for switched access service.¹⁷

interexchange carriers through which the LECs recover the portion of their NTS loop costs assigned to the interstate jurisdiction that is not recovered through the SLCs.

16. In terms of economic efficiency benefits, AT&T observes that with the implementation of SLCs, its interstate message toll rates have decreased approximately 20%¹⁸ for the average customer, and the number of AT&T's interstate toll messages has increased by 9%. AT&T further states that the economic efficiency benefits that result from flat-rate and user recovery of the interstate portion of NTS loop costs extend beyond the telecommunications sector. It references a study by the Wharton Econometric Forecasting Associates which concludes that implementation of SLCs has led to an increase of \$6 billion in the nation's real Gross National Product (GNP), created 10,000 new jobs, reduced the federal deficit by \$1.9 billion, and decreased overall price levels by .1%.¹⁹ Furthermore, AT&T urges that it is necessary to continue increasing the transition to flat-rate subscriber line charges to increase the use of the network and generate the full range of societal benefits that will flow from more economic pricing.²⁰

17. AT&T claims that although some progress has been made in deterring uneconomic bypass, 70% of the interstate subscriber plant revenue

16 A list of all parties and their abbreviations commenting in this proceeding is found in Appendix A.

17 According to AT&T, NECA's midyear 1986 filing reported a 10% increase in access MOUs between 1984 and 1985. AT&T Comments at 13.

18 See AT&T Comments at 13. AT&T attributes this decrease is to the transfer, since 1984, of more than \$3 billion per year from IXC recovery to subscriber loop recovery, together with other Commission policies that have further reduced CCL rates. AT&T rates for switched access (MTS and WATS) services were reduced by 5.6% in 1985 and by another 12% in 1986, each as part of the flow-through which we recommended with the implementation of the \$1.00 and \$2.00 SLC. AT&T Comments at 16. Additional decreases of 11% for MTS and 5% for WATS that were not reflected in the AT&T comments became effective on January 1, 1987. See *infra* note 67.

19 Wharton Econometric Forecasting Associates, Pricing Telecommunications Services: The Impact on the U.S. Economy of Subscriber Line Charges (1986) (Wharton Study).

20 AT&T cites the Wharton Study as demonstrating the full range of benefits to be gained from implementing a \$1 per month subscriber line increase each year for the next five years, culminating in a \$7 dollar SLC cap in 1991. With this further progress in cost-based pricing, AT&T claims that the implementation of SLCs over a 5 year phase-in will lead to an increase of \$23.8 billion in the real GNP, create 30,000 new jobs, reduce

requirement is still being recovered through IXC charges. It contends, along with ALC, that some bypass of the public switched network is being averted by subscriber line charges and other Commission action, but that if the present uneconomic toll loading continues, the bypass potential will be significant. Thus, AT&T concludes that this Joint Board and the Commission must continue to move away from uneconomic toll loading by increasing SLCs. It views movement to \$4.00 by 1988 as an essential next step in that process. AT&T and ALC see no universal service concerns as a result of the present limited SLCs, citing steady or increasing telephone penetration levels. AT&T also contends that if problems should develop with the implementation of increased SLCs, the Commission has an ongoing monitoring program and would be able to respond quickly to mitigate them.

18. While ALC and US Sprint support increased SLCs, they suggest that SLCs be increased at a rate of \$.50 per line per year in order to minimize consumer disruption, and to coincide with the completion of equal access conversions and protect interexchange competition.²¹ MCI states that any increase in SLCs must be based on a strong record of economic efficiency, because, in its view, bypass concerns alone do not justify an increase in SLCs.²²

19. The LECs also state that the implementation of limited SLCs has furthered the primary goals of this proceeding. Thus, as a group they strongly support an increase in the level of SLCs. Four major industry groups are sponsors of the LEC industry-wide Unity 1-A agreement, submitted as comments in this proceeding,²³ and propose in that agreement an increase

the federal deficit by \$10.3 billion and decrease overall price levels by .2%. AT&T Comments at 24.

21 As an alternative proposal, ALC recommends that the Commission substitute a fixed price differential between premium and nonpremium access service for the current percentage based differential, in order to reduce the pressure on the other common carriers' (OCCs) operating margins resulting from lower CCL charges. US Sprint supports this alternative proposal.

22 In MCI's opinion, the Commission's decision requiring that the price of WATS access lines be cost-based and that reductions be made to the originating CCL rate have done much to address the bypass problem. According to MCI, a direct result of this decision is to eliminate the uneconomic loading of NTS costs on WATS usage and with that diminish the incentive for uneconomic bypass of the switched network. In its reply comments, MCI critiques the analyses and assumptions of the various bypass studies submitted by the Bell Operating Companies (BOCs). See infra note

in residential and single-line business SLCs to \$3.00 in June 1987 and \$4.00 in January 1988, or the amount with which a LEC will recover its full study area interstate MTS loop costs, whichever is less. The agreement also provides that LECs may voluntarily raise their SLCs above \$4.00, subject to considerations of universal service objectives and market conditions, and that interexchange carriers should pay an "appropriate portion" of interstate MTS costs. Furthermore, as part of their joint comments, the Unity 1-A sponsors propose to increase the subscriber line charge applied to embedded Centrex lines from the present \$3.00 amount to a \$4.00 cap in June 1987 and a \$5.00 cap in January 1988.²⁴

20. The LECs argue that the implementation of \$1.00 and \$2.00 SLCs has resulted in economic efficiency benefits, citing the significant reductions in CCL rates that have increased overall demand for interstate

32.

23 The four industry associations that submitted the Unity 1-A agreement are the National Rural Telephone Association (NRTA), the National Telephone Cooperative Association (NTCA), the Organization for the Advancement and Protection of Small Telephone Companies (OPASTCO), and the United States Telephone Association (USTA). This agreement is an outgrowth of the LEC 1984 Unity agreement, which was submitted for consideration during our previous examination of these access charge issues. The Unity 1-A agreement was filed in this proceeding on July 25, 1986, and was supplemented by comments and reply comments by the sponsors.

The sponsors state that they represent over 1300 local telephone companies owning over 99% of all exchange access lines in the country. They present as the major goals of their agreement: 1) the broadest connectivity reasonably attainable; 2) usage charges which will encourage efficient use of the network; and 3) reduction in the scope and complexity of regulation. The agreement presents a comprehensive approach to the issues raised in the Further Notice, by advocating not only increases in SLCs, but also revisions in high cost assistance (discussed infra paras. 75-77) and the present pooling system (discussed infra paras. 98-101).

Additionally, the Unity 1-A agreement reflects the third goal of its sponsors by supporting continued use of average schedules as a compensation mechanism and of an overall interstate rate of return in each jurisdiction as the most appropriate method to properly protect the rural, high cost, highly leveraged, REA-funded LECs and all other small telephone companies. It also seeks the reduction or elimination of FCC requirements the sponsors describe as unnecessary and burdensome, and separations reform. As these latter issues are beyond the scope of this proceeding, they are not discussed herein.

switched access services. They also claim that universal service has not been adversely affected by SLCs, contending that nationwide telephone penetration levels are at their highest point (over 92%) since divestiture²⁵ and that there has been no decrease in telephone penetration levels for low income, elderly or rural populations as a result of SLCs.²⁶ Many of the BOCs and independent LECs state in their comments that in their particular regions the telephone penetration rates have not decreased²⁷ and in many instances the number of switched access lines has increased.²⁸ In particular, Southwestern Bell sees no evidence that the present SLCs have had a negative impact on universal service. Its comments include a disconnect study conducted in Kansas City that it claims revealed that high toll bills were more influential on the decision to disconnect than the cost of basic local service. Similarly, a Washington state study submitted as an

24 See Joint Comments, Appendix 3 at 3.

25 See Bell Atlantic Comments at 4.

26 Bell Atlantic states that penetration rates for the elderly customers in its service area are in excess of 95%. Id. at 5. In addition, NYNEX noted a net gain in the number of subscriber lines since June 1, 1985, in its end offices which serve low income, elderly and rural areas. NYNEX Comments at 16-17.

27 For example, Bell Atlantic states that there has been no statistically significant decline in telephone penetration rates in any state it serves. See Bell Atlantic Comments at 5. See also Ameritech Comments at 4-5; Rochester Comments at 17; Cincinnati Bell Comments at 2-3; NYNEX Comments at 16-17; Pacific Bell and Nevada Bell Comments at 3; SNET at 2-3; US West Comments at 9.

28 BellSouth reports a 2.2% increase in the number of households it serves during the past two and one-half years, while Rochester reports an increase of 2.1% in the number of households it serves in just over two years. BellSouth Comments at 8; Rochester Comments at Exhibit A; see also Centel Comments at 2; Pacific Bell and Nevada Bell Comments at 3.

LECs also note their ability to maintain low basic rates. Bell Atlantic claims that the cost of basic local telephone service remains quite low and that, as a percentage of household income, the price of flat-rate residential service has actually decreased over the past ten years. It further notes that even with a \$4.00 subscriber line charge, the cost of flat-rate residential service would still represent less than .5% of the average household income. Bell Atlantic Comments at 5-6.

appendix to US West's comments found that, on average, customers whose service was disconnected had long distance charges equal to or in excess of their bill for local service.²⁹ Thus, these LECs conclude that to the extent that SLCs have caused and will continue to cause significant decreases in the interstate toll rates, many low income customers can benefit.

21. The LECs also argue that implementation of limited SLCs has provided greater incentive for large users to stay on the network and has thus averted or delayed decisions by these users to bypass the switched network. The LECs assert, however, that the uneconomic pricing disparities, if left unchanged, remain at levels sufficient to force large users to abandon the public switched network for economic reasons. Southwestern Bell states that the existing SLCs have diminished uneconomic bypass incentives, but submits several studies supporting its conclusion that significant bypass incentives remain.³⁰ A number of other BOCs also submitted studies or data to demonstrate present or future bypass risks, focusing on the perceived immediate threat of service bypass,³¹ as they urge further

The Unity 1-A sponsors note in their reply comments that several states have recently moved to implement limited subscriber line charges for intrastate recovery purposes as well. Joint Reply Comments at 13.

29 See infra note 60.

30 Southwestern Bell submitted with its comments the results of three different bypass studies to support its conclusion regarding bypass. First, using a Location Specific Bypass System (LSBS) model, it found that if all customers who had the economic incentive adopted the identified bypass technology after June 1, 1986, Southwestern Bell would have seen decreased revenues of \$296.7 million. Southwestern Bell Comments at 17-18 (App. 4). In its Bypass Adoption Rate Study (BARS), it estimated that about 24.8% of its total chargeable access minutes would be lost to bypass in 1990, in spite of a \$2.00 SLC and the changes in access charge rules adopted in the Commission's decision in CC Docket No. 86-1. It estimated that the bypass loss by 1995 would reach 39.7%. Id. at 19. In its third study, in which it employed a Bypass Analysis and Tracking System Data Base (BATS) and attempted to measure the extent that bypass is actually occurring in its certificated service areas, it found that 674 traffic locations met the threshold of a 40% decrease in toll minutes of use over the designated time period, a figure that Southwestern Bell claims indicates that a location has potentially bypassed Southwestern Bell's network. Southwestern Bell says that it is supplementing this study with on-site visits and other techniques to corroborate that the identified locations are in fact bypassing. It has verified 12 bypass systems in Kansas, which it maintains would, with full implementation, result in a minimum annual loss of \$3.5

action to reduce CCL rates by increasing SLCs. Ameritech asserts that, with the concentration of business in the Chicago loop area and new competitive fiber optic systems being introduced there, some 20% of Illinois Bell's total revenues are at risk from bypass. BellSouth maintains that under current rules, the potential loss from bypass in its region is \$397 million. NYNEX, Pacific Bell, and US West also identify serious bypass concerns for their areas.³² In addition to their own studies, many of these LECs cite

million in access and intraLATA toll revenues. Southwestern Bell maintains that bypass by one large user in St. Louis has already reduced its revenues by \$6 million annually. Id. at 19-21.

31 Service bypass involves the migration of customers from switched to special access services due to uneconomic loading of NTS loop costs on interstate toll rates. Southwestern Bell contends that service bypass remains an immediate problem, submitting that orders for high capacity facilities, which it assumes are being used to carry bypass traffic, increased 183% from June 1985 to May 1986. It estimates that changes from switched to special access facilities by two large Oklahoma companies alone resulted in an estimated annual revenue loss to the company of \$8 million. Id. at 21. Rochester asserts that despite reductions in toll rates and general economic growth, the switched access service usage of its top 10 customers declined by 27.6% during a three-month period in 1986 when compared with their usage during the same period in 1985, while at the same time, the use of special access facilities by these same customers increased by 47.6%. Rochester Comments at 21-23. MCI claims that Rochester's study does not consider CCL and toll rate reductions, and thus is not useful. MCI Reply Comments at 13-14.

32 NYNEX claims that evidence that its end offices predominately serving businesses have had a lower rate of growth than residential end offices, and that there is a lower percentage of growth in originating than terminating minutes, supports the argument that business users are bypassing services to avoid paying uneconomic switched access charges. NYNEX contends that usage carried over private lines has grown more rapidly than overall usage, and that if bypass is left unstemmed, the unrecovered cost per subscriber line per month will be an average of \$2.30 - 3.46 in New York and \$1.39 - 2.09 in New England. NYNEX Comments at 9-12.

Pacific Bell cites twenty-one specific examples of bypass of its network and maintains that bypass is a growing phenomenon due to vulnerability in regulated rate design, availability of advancing technologies, and vendor strategies that lock Pacific Bell out of marketing intraLATA services. Pacific Bell and Nevada Bell Comments at 4-5 and Attachment C. US West conducted two studies that it maintains demonstrate that the current level of end user charges must be increased to further reduce the incentives for uneconomic bypass. It states that one study,

a recent report issued by the United States General Accounting Office (GAO) which concluded that 16-29% of customers bypass and as many as 53% of the LECs' customers are considering plans to initiate or increase bypass activities.³³

22. CP National, the one LEC that does not support increasing SLCs at this time, asserts that the record does not support claims of uneconomic bypass, and proposes that the Commission maintain the current SLCs since the perceived benefits of SLCs "have not reached CP National's service areas."³⁴ Shenandoah, while expressing its support for the Unity 1-A agreement's proposal regarding SLCs, also maintains that the agreement's statement that interexchange carriers should continue paying an "appropriate portion" of common line costs supports its position that IXC's should pay a charge based either on relative use/interstate subscriber line usage (or SLU) or a roughly equivalent fixed percentage (9-10%) of NTS loop costs. Shenandoah suggests that this charge be assessed on a study area basis and maintains that for many customers such a charge would permit the capping of SLCs at less than \$4.00.³⁵

comparing the number of customer locations for each state in the US West service region where the customer has an economic incentive to shift traffic from switched to special access services, showed that the economic incentive for bypass would be eliminated with a full, cost-based SLC. A second study calculating the cross-over point between switched and special access services confirmed, in US West's view, that a reduction in bypass potential occurs as access prices continue to move in the direction of actual costs. US West Comments at 29-30.

MCI critiques the bypass studies presented by the BOCs. It claims that Ameritech's conclusion regarding the bypass problem in Chicago is irrelevant since it focuses only on facilities bypass and, in MCI's view, further implementation of SLCs will not influence this type of bypass. MCI claims that BellSouth fails to explain how it derived its estimate of \$397 million in revenue loss. MCI contends that NYNEX vastly overstates the bypass problem and that in reality the bypass threat is "miniscule" in terms of the impact on the end user. MCI faults Pacific Bell's analysis for misstating the assumed price for special access service, for failing to compare special access and WATS rates, and for overstating the amount of traffic each special access line can carry. MCI claims that Southwestern Bell's LSBS study erroneously assumes that switched access service is homogeneous with all forms of bypass, and that a customer will choose only one IXC, the one in closest proximity to it. MCI Reply Comments at 2-17.

33 See infra note 76.

34 CP National states that it serves local areas identified as rural, many of which have high local exchange rates. CP National states that

23. State public utility commissions (state commissions) participating in this proceeding express a range of views on the NTS cost recovery issues. At the outset, a number of state commissions, particularly those of California, the District of Columbia, Kansas, Missouri, and New York, raise concerns that this reexamination proceeding is premature since the subscriber line charge was only increased to \$2.00 in June 1986. They contend that SLCs have not been in effect for a sufficient time period to determine accurately the impact that an increase in SLCs would have on the universal service objective. In addition, some argue that there have been several changes in the jurisdictional separations rules, along with other Commission actions aimed at deterring bypass, and that the impact that these changes will have on local rates should be determined before any increases in SLCs are considered.³⁶

24. In addressing the substance of NTS cost recovery issues, many state commissions urge that the NTS costs allocated to the interstate jurisdiction should be recovered through charges to the IXCs as well as flat-rate charges on end users.³⁷ Michigan and Missouri suggest that the

although it has an overall annual growth rate of 2% in the number of subscribers it serves, it also serves particular areas with depressed penetration levels. CP National Comments at 2.

35 The Unity 1-A sponsors disagree with Shenandoah's interpretation that a SLU-based IXC charge for each study area is consistent with that agreement, contending that the use of SLU would not have the same "relatively consistent impact" among the LECs as the Unity 1-A proposal. Joint Reply Comments at 32.

36 On January 9, 1987, the Colorado Public Utilities Commission filed comments, in which it argued that any increase in SLCs should be delayed until further study of an allocation and pricing theory presented in a report, entitled "Cost-of-Service Methods for Intrastate Jurisdictional Telephone Services," issued by the National Regulatory Research Institute (NRRI), Report No. NRRI-84-13, in April 1985. Although these comments were submitted three months after the close of the pleading cycle and we do not want to encourage such lateness, we will consider them in order to fully explore all positions on the issues raised in the Further Notice.

37 On March 4, 1987, the National Association of Regulatory Utility Commissions filed a resolution in the record, stating that there should be no increase in the existing SLCs until one full year of experience and a study of the impact of the existing charge and any increased charge on subscribers, and that interexchange carriers should pay a portion of the interstate allocation of NTS loop costs based upon a measure of relative

IXCs should pay an interstate SLU-based charge, that is, a charge based on relative interstate toll subscriber line usage, with any additional NTS costs not recovered from IXCs available for recovery through SLCs.³⁸ Some other state commissions go further and argue that SLCs should be eliminated.³⁹ Arkansas also adopts the concept of charges based on relative interstate use to IXCs, but proposes more fundamental changes in jurisdictional separations and NTS cost recovery.⁴⁰ Like Arkansas,

use of subscriber lines. Letter from Paul Rodgers, General Counsel, National Association of Regulatory Utility Commissions, to William J. Tricarico, Secretary, Federal Communications Commission (March 2, 1987).

38 Michigan maintains that the present \$2.00 SLC brings some low cost LECs to a point where only a SLU-based residual remains to be recovered from the IXCs. Missouri agrees and further argues that the Joint Board recommendation of November 1984 supports the position that IXCs should pay, on a nationwide basis, a charge based on at least a SLU level of NTS costs. It recommends that before increasing SLCs, the Joint Board should examine how close the current policy brings the LECs to a SLU-based IXC charge.

AT&T opposes the concept of a SLU-based charge on IXCs, along with a cap on end user interstate NTS cost recovery, claiming that this proposal amounts to a reversal of the Commission's fundamental position on recovery of NTS costs through end user charges. AT&T asserts that, in any event, with a SLC of \$4.00 in 1988, the IXCs would still be paying charges which exceed a SLU-based portion of NTS loop costs. AT&T Reply Comments at Attachment B.

39 Specifically, Kansas, Texas and Arkansas call for eliminating SLCs.

40 In its comments in this proceeding, Arkansas Public Utilities Commission (Arkansas) proposes an "experimental unified tariff" for NTS cost recovery, applicable only to its state. In its reply comments, Arkansas modifies and expands on this proposal to apply it on a nationwide basis. In its revised proposal, Arkansas proposes first that all residential SLCs be eliminated and that the money currently recovered through these charges be allocated to the intrastate jurisdiction and recovered through local rates in "the most economic and equitable manner." Second, Arkansas proposes that the interstate allocator for NTS common line costs be gradually reduced from the 25% basic allocator to a SLU-based allocator on a study area basis. Under the plan, those NTS costs remaining in the interstate jurisdiction would be paid by IXCs. Arkansas also makes other specific proposals regarding the method of recovering these costs from the IXCs. Like Arkansas, Texas proposes eliminating the SLC and shifting the associated NTS costs to the intrastate jurisdiction, thereby allowing the state commissions to develop the most "equitable and economically efficient" means of allocating these costs.

California suggests a jurisdictional separations change to a SLU-based allocation for the interstate portion of NTS costs, and at the same time endorses Shenandoah's proposal.⁴¹

25. Focusing specifically on SLCs and their impact on universal service, the District of Columbia, Florida, Kansas and Texas contend that the Commission cannot rely on data from the U.S. Bureau of the Census (Census Bureau) to find that penetration rates have not decreased as a result of implementing SLCs, because other factors such as population growth rates or the lifeline program may have been effective in keeping overall penetration rates at the current levels. Furthermore, Arkansas, Missouri and New York also contend that subscriber line charges are similar to local service rates and, as such, increasing SLCs will increase the cost of access to the local network and thereby decrease the number of persons who could afford telephone service. In particular, New York argues that the Commission must consider an end user's total monthly bill in order to evaluate accurately the effect on the end user of increasing SLCs. California argues that the impact of subscriber line charges on universal service must be evaluated in conjunction with other changes causing upward pressure on local service rates such as the phase-out of CPE costs and the deregulation of billing and collection. Arkansas argues that, with a

Comments were received only on the initial Arkansas "experimental unified tariff" proposal. That experimental proposal would recover both interstate and intrastate costs pursuant to a unified tariff administered by the state, that would be characterized by flat-rate recovery from the IXC's. MCI opposes the Arkansas plan because it would shift the risks of NTS investment from LECs to IXCs. It further maintains that the plan imposes double-charges on IXCs that purchase special access by including special access minutes in the calculation of market share for the apportionment of switched access NTS cost recovery. MCI also faults the plan for failing to provide for some differential rate between premium and non-premium access service. Ad Hoc argues that Arkansas failed to explain its proposal in sufficient detail. Finally, the sponsors of the Unity 1-A agreement rebut the contention made by Arkansas that a SLU-based charge to IXCs is consistent with that agreement. They explain that the agreement clearly does not advocate the jurisdictional separations changes required by the Arkansas plan, and that the use of SLU would not have the same effect as the Unity 1-A proposal. See also supra note 35 and accompanying text.

41 NYNEX cautions that the concept of a SLU or relative-use-based recovery of loop costs from the IXCs raises several concerns. First, NYNEX expresses concern that because SLU is a usage-sensitive allocator, NTS cost recovery from the IXCs on a SLU basis could exacerbate uneconomic bypass. Second, it notes that by merely shifting more of the revenue requirement to the intrastate side of the business, the SLU allocator does not necessarily

penetration rate of only 88% in its state, an increase in SLCs will frustrate universal service. Pennsylvania and Texas contend that the typical subscriber who makes few long distance calls does not benefit from the decreased interstate toll rates that have resulted from the introduction of SLCs.

26. In contrast to most other state commissions, Illinois argues that subscriber line charges should be increased, contending that the transfer of NTS cost recovery to end users will encourage efficiency, promote rational economic development, maintain universal service and lead to a decrease in unnecessary subsidization in the telecommunications industry. Illinois supports its argument by noting that subscriber penetration levels for Illinois have remained stable. It states that the maintenance of large customers on the public switched network will ensure that all subscribers enjoy the benefits derived through the use of common facilities.

27. Illinois also cites its concern with bypass problems in Chicago as justification for increasing SLCs.⁴² Other state commissions maintain that little evidence has been presented to establish the existence of uneconomic bypass or the effect that SLCs have had in combatting it; in their view, the evidence provided so far has been mostly anecdotal.⁴³ They maintain that the costs of imposing higher subscriber line charges outweigh

solve the uneconomic bypass problem; such action may create upward pressure on intrastate rates and incentives for more bypass.

42 In its reply comments, New Jersey Board of Public Utilities (New Jersey) also states its concerns with bypass problems present in its state, and includes several examples of existing bypass activities. It encloses a report downgrading New Jersey Bell's bond rating because of the financial community's concern respecting bypass of New Jersey Bell's network, caused by the mandatory pooling of carrier common line costs.

43 A number of state commissions specifically criticize the bypass studies and surveys submitted by the BOCs. California rebuts Pacific Bell's information on bypass (see supra note 32), claiming that it does not necessarily support a conclusion that SLCs should be increased. It maintains that the break-even point for bypass could be raised by increasing special access rates relative to switched access rates, just as effectively as raising SLCs. Kansas faults the bypass studies submitted by Southwestern Bell (see supra note 30). It argues that under the LSBS model, ratepayers would be paying more in SLCs than the amount saved in decreased bypass. Furthermore, Kansas submits that the BARS study fails to consider a number of factors besides rates that were cited by Southwestern Bell in its

the benefits of avoiding bypass revenue losses, that studies do not indicate that greater SLCs are necessary to combat bypass, and that increased SLCs will increase "local bypass" and further erode universal service. A number of state commissions argue that reduced interstate toll rates resulting from implementation of SLCs have not helped alleviate bypass, because factors other than the price of long distance services influence the decision to bypass.⁴⁴

28. Several consumer groups, along with the Communications Workers of America (CWA), oppose increasing SLCs.⁴⁵ The CWA and the CFA, like many of the state commissions, argue that it is premature to reexamine SLCs at this time. The Consumers' Councils and AARP contend that NTS costs should not be recovered through flat-rate charges on the end user at all, but that it is ultimately "fairer" for interstate toll users to continue to pay all the NTS costs.⁴⁶

29. Moreover, several of these commenters believe that in the long run SLCs are likely to have a negative effect on universal service. AARP contends that the decline in long distance rates will not offset the additional subscriber line charges for all users, since, according to its data, only 65% of all residential telephone users make long distance calls and, of those individuals, few make greater than \$10 in long distance calls per month. Other user groups argue that the Census data cannot be relied upon to support the proposition that SLCs have not had an adverse impact on telephone penetration rates. In particular, in their joint comments,

comments. Finally, Kansas maintains that the BATS study is not helpful in this proceeding, since much of the bypass found by survey-type bypass studies involves systems that have been in existence for many years.

44 These state commissions include those in Arkansas, California, Kansas, Michigan, and Missouri. They rely primarily on a December 1984 Bypass Report by the NRRI to support this position. Southwestern Bell argues that the NRRI Report inaccurately portrays the nature and extent of bypass because it was conducted in 1984, before AT&T instituted its Megacom and Software Defined Network services. It also faulted the report for excluding resellers, who may be the largest users of Megacom service.

45 These groups include the Consumers' Councils of Georgia, Washington, and Colorado (Consumers' Councils), filing joint comments, and Consumers' Councils of Ohio, New York, and the District of Columbia, filing independently; the United Church of Christ Office of Communications (UCCOC); the Association of American Retired Persons (AARP); the Consumer Federation of America (CFA); and the National Association of State Utility Consumer Advocates (NASUCA).

Consumers' Counsels contend that the effect of SLCs on penetration rates for telephone service has been obscured by other factors such as an overall increase in income and reductions in unemployment.

30. Some of these consumer groups also question whether there have been any actual economic efficiency gains from the implementation of SLCs.⁴⁷ NASUCA and CWA contend that only anecdotal evidence supports the notion that increased SLCs are necessary to fight bypass, and that other devices, such as tapered rates, flat-rate IXC charges and contract pricing would be more effective. Consumer groups generally maintain that there is no evidence that large users are leaving the switched network due to the present level of CCL charges, and also cite the high marketplace performance of telephone companies in support of their argument that bypass is a more distant problem than what they term the direct threat posed by increased SLCs.

31. Several other user groups⁴⁸ as well as the National Telecommunications and Information Administration (NTIA), and the U.S. Department of Justice (DoJ) argue that the existing SLCs have increased consumer welfare as demonstrated by the decrease in long distance toll rates and growth in the minutes of use for switched access services. These parties generally contend that evidence shows that telephone penetration rates have not decreased and therefore universal service has not been harmed by the implementation of SLCs. DoJ and NTIA, as well as API, support further increases in SLCs in order to deter bypass. They argue that the existing access charge system continues to engender uneconomic bypass, and while it is difficult to quantify bypass, it cannot be ignored as a threat.⁴⁹

46 The New York Consumer Protection Bureau concurs in this point. The Ohio Office of Consumer Counsel also recommends the phase-out of SLCs, and the adoption of a flat-rate charge for IXCs.

47 The Consumers' Counsels maintain that the Commission has not derived the marginal cost data concerning MTS loop costs, which it asserts is necessary to evaluate whether prices are moving closer to the marginal cost of the product and, without such data, the Commission cannot determine whether there in fact have been any economic efficiency gains with the implementation of SLCs.

48 These groups include the American Petroleum Institute (API), Concerned Citizens for Universal Service (CCUS), and the International Communications Association (ICA).

49 Ad Hoc supports increasing SLCs although not due to bypass concerns, claiming that the rhetoric about bypass far exceeds any evidence that it has

B. Discussion

32. In developing this recommended decision, we have carefully evaluated the record regarding the impact of the limited SLCs presently in effect. When we recommended that the Commission implement only the \$1.00 and \$2.00 SLCs, we stated our belief that this step would: substantially reduce the extent of pricing discrimination between switched and special access services; promote economically efficient use of the local telephone network; and permit significant reductions in the CCL charge, thereby substantially reducing the incentive for interexchange carriers and high volume toll users to bypass the public switched network as well as permitting major reductions in interstate toll rates.⁵⁰ Moreover, we stated that the gradual phase-in of SLCs, and in particular our recommendation for a \$2.00 cap on the subscriber line charge pending further study, would guard against any adverse impact on universal service.⁵¹ We stated that this study would be conducted in late 1986.⁵²

33. Evaluation of the record before us indicates that our earlier recommendations regarding NTS cost recovery have had the intended effects and advanced our four national goals for this proceeding. First, we find that the implementation of SLCs has had no adverse effect on universal telephone service. Data, gathered by the Census Bureau as part of the Commission's monitoring plan since November 1983, show that the overall nationwide telephone penetration rate has increased since the implementation of the SLCs. In the Census Bureau's most recent release of information, we note that the figures for November 1986 indicate that 92.4% of all households in the U.S. have a telephone in their home.⁵³ This figure for

harmed small users and carriers. Ad Hoc and NTIA argue that SLCs should be increased to \$3.00, and then \$4.00, on an annual basis, rather than pursuant to the schedule proposed in the Unity 1-A agreement.

50 Recommended Decision, supra note 9, at para. 26. To ensure this latter result we recommended that the Commission take all appropriate steps to ensure that the decreases in access costs for IXCs resulting from implementation of the increased SLCs be flowed through to interstate toll customers.

51 Id. at para. 27. In our initial recommendation we noted that our concern for universal service was prompted by a variety of upward pressures on local service rates as well as the fact that SLCs represented a major change in the method of NTS cost recovery.

52 Subscriber Line Charge Order, supra note 14, at para. 5.

telephone subscribership is the highest reported by the Census Bureau since it first began to collect such data as part of the Current Population Survey in November 1983, which at that time showed a penetration rate of 91.4%. In addition, the data show that in November 1986 the number of households with telephone service was 83.1 million as compared to 78.4 million in November 1983. At the same time, the number of households without telephone service declined from 7.4 million to 6.8 million. Subscribership levels among low income groups have remained stable.⁵⁴ Moreover, the telephone penetration rates for the elderly, i.e., individuals 60 years old and above, have remained steady at approximately 95%, a level above the national average.

34. These nationwide figures for telephone penetration rates are also supported by studies submitted in response to the Commission's request. Many LECs reported in this proceeding an overall increase in their penetration levels or a net gain in the number of subscribership lines in their service areas.⁵⁵ In addition, all of the 12 LECs that filed data on this issue found that there was no overall decrease in the penetration levels in their service areas and that there was no significant subscriber drop-off in any particular section of their service areas.⁵⁶ These 12 LECs

53 Telephone Subscribership in the U.S., Industry Analysis Division, Federal Communications Commission (released January 12, 1987); FCC Public Notice, Mimeo No. 1472 (January 12, 1987).

54 The Census Bureau's data gathered according to income groups contradict NASUCA's contention that telephone penetration rates actually have decreased for all income levels except for those households in the \$50,000 -74,999 income category. See NASUCA Comments at 3-4. At the outset, the study cited by NASUCA neglected to consider the effect of inflation on the value of the dollar. To be more accurate, comparison of penetration rates from different years should account for inflation because it decreases the value of the dollar over time; accordingly, it is not accurate to compare the 1983 telephone penetration rates for the same dollar level of income based on the value of 1983 dollars, with the 1986 telephone penetration rates for the same dollar income level based on the value of 1986 dollars. In addition, if the most recent data for income levels in November 1986 is actually compared to the November 1983 data, the record shows that the penetration rates for all the Census Bureau's income categories have remained steady, with minor fluctuations that are not statistically significant.

55 See Comments filed by BellSouth, Centel, NYNEX, Rochester, and United. In particular, NYNEX noted a net gain in the number of subscriber lines since June 1, 1985 in its end offices that serve low-income, elderly and rural areas. See NYNEX Comments at 16-17.

serve more than 90% of the nation's total local access lines.

35. Several parties, however, contend that it is too early to fully evaluate the effects of SLCs on universal service. While we remain alert to any potential impact that SLCs may have on universal service, and outline below a comprehensive monitoring plan to track the effect of the recommended SLC increases, we find nothing in the record that indicates that subscriber line charges have undermined universal service. We believe that sufficient time has passed to permit an initial determination concerning the effects of the implementation of SLCs on universal service. The release of the latest Census Bureau figures, showing nationwide subscribership levels at an all-time high, confirms the positive trend we have seen in penetration levels during the implementation of SLCs.⁵⁷

36. With careful monitoring and with any interested parties being allowed to file information on monitoring needs, any future declines in subscribership levels that might occur will be readily apparent and can be met with quick regulatory action. Accordingly, we recommend that the Commission mandate an open docket and increased monitoring of the effects of these charges by the Joint Board.⁵⁸

37. With regard to our universal service analysis in this proceeding, studies provided in the record indicate that subscribers may not connect initially, or may fail to reconnect, to the telephone network because of the high cost of commencing service.⁵⁹ Similarly, the record contains recent subscriber disconnection studies indicating that a major reason subscribers are involuntarily disconnected from, or voluntarily disconnect from, the telephone network is high toll bills.⁶⁰ These studies do not attribute a subscriber's decision to connect or disconnect from the telephone network to the implementation of SLCs,⁶¹ but indicate instead

56 See Comments filed by Ameritech, Bell Atlantic, BellSouth, Centel, Cincinnati Bell, NYNEX, Pacific Bell and Nevada Bell, Rochester, SNET, Southwestern Bell, United, and US West.

57 Several commenters contended generally that this growth trend is somehow masking subscriber drop-off. We are unable to give credence to this argument because it is contrary to the Census Bureau's data and the commenters have failed to provide evidence of subscriber drop-off.

58 The broader monitoring efforts that we recommend are discussed infra paras. 136-138.

59 See supra para. 20.

that other factors such as high long distance bills and high connection, installation and security deposit charges are largely responsible for keeping subscribers off the network.⁶² The record before us indicates that the \$2.00 SLC has not caused the subscribership declines that some observers anticipated would occur when the limited SLCs were initially recommended. For the foregoing reasons, we conclude that the implementation of limited SLCs has not undermined the goal of universal service.⁶³

38. Second, we find that the implementation of limited SLCs, by moving to a more cost-based pricing structure for switched access services, has produced economic efficiency gains. Specifically, the move toward recovery of a portion of NTS loop costs through SLCs has reduced switched access and interstate toll rates, generating substantial increases in interstate toll calling.⁶⁴ This increased traffic imposes little or no additional costs on the telephone network and allows recovery of NTS costs to be spread over a greater number of minutes of use. Since the implementation of SLCs, CCL charges have decreased by 40%.⁶⁵ A significant

60 See US West Comments at Appendix B.3, the Washington State Utilities and Transportation Commission Study; and Southwestern Bell Comments at Appendix 2, the Kansas City Disconnect Study.

61 In fact, a survey conducted by US West of customers in Tucson, Arizona, and Salt Lake City, Utah, found that a majority of those individuals not connected to the network were using pay telephones for their calling, and over 20% of them were spending approximately \$5.00 or more per week for telephone service. In addition, this survey found that these individuals were generally willing to pay between \$15.00-20.00 on average for monthly service charges. See US West Reply Comments at Exhibit 7.

62 A recent survey by CFA, AARP, and AT&T supports this conclusion. See infra note 112. As discussed below, these studies have prompted us to recommend responsive action in the form of additional federal lifeline assistance to offset connection charges. See infra paras. 68-70.

63 As discussed supra para. 11, lifeline assistance measures are also a critical element in a balanced effort to achieve universal service. Moreover, the additional lifeline assistance measures recommended below are designed to bring the benefits of telephone service to even more individuals.

64 In the three years prior to the implementation of SLCs, the growth in switched access minutes averaged 7.6% per year. Since implementation of these charges in May 1984, the growth rate has averaged 10.9% per year.

portion of this decrease is directly attributable to subscriber line charges.⁶⁶ In addition, interstate toll rates for the average customer have decreased approximately 30%⁶⁷ in the last three years.⁶⁸ This decrease in interstate rates has brought a significant increase in demand for interexchange services.⁶⁹ The LECs have experienced a concomitant increase

65 Since May 1984 when multi-line business subscriber line charges were implemented, CCL rates have dropped from 5.24 cents per minute of use to a current level of 3.14 cents on a weighted basis. With the initial implementation of the residential and single-line business subscriber line charge in June 1985, the CCL rate was a uniform 4.33 cents/minute. With the bifurcation of the CCL rate, the terminating charge remains at 4.33 cents/minute, but the originating charge decreased to 3.04 cents/minute in June 1986, and dropped to 1.55 cents/minute on January 1, 1987. These reductions are the result of the implementation of SLCs as well as the transition from SPF to 25% basic allocator, the phase out of inside-wiring and CPE cost recovery, the change in rate of return regulation and the changes adopted in CC Docket No. 86-1, which bifurcated the originating and terminating CCL rates. These reductions have occurred despite certain other regulatory actions during this period that by themselves would have had the effect of increasing the CCL rate (such as the increase in nationwide NTS loop costs and the special access treatment of WATS closed-end lines in CC Docket No. 86-1.)

66 Absent the present residential and single-line business, multi-line business, and embedded Centrex subscriber line charges, the weighted average level of the present CCL charge would rise from 3.14 to 4.97 cents per minute of use, an increase of 58%.

67 In its comments, AT&T reports a decrease in interstate toll rates for an average customer of approximately 20%. AT&T Comments at 13. However, we note that the Commission recently directed AT&T to lower its MTS rates by an additional 11% and its WATS rates by an additional 5%. AT&T Communications, Memo No. 1287 (released December 30, 1986); and FCC News Release, Report No. CC-180 (released December 30, 1986). Although the Commission did not direct the other interexchange carriers, such as MCI or US Sprint, to decrease their rates, it anticipates that these companies will also reduce their rates in response to AT&T's action.

We recognize that these rate decreases, particularly the most recent one, are not solely attributable to the introduction of SLCs, because other separations and access charge changes have been implemented during this period, and the rate decreases have occurred in a relatively favorable economic environment. Nevertheless, it is clear that SLCs have had a major impact in bringing down the rates charged for interstate toll services.

68 Similar reductions are occurring in intrastate toll rates in order to

in the demand for their access services.⁷⁰ For example, Rochester states that it has experienced a steady increase in interstate switched usage throughout the 24-month period in which subscriber line charges took effect.⁷¹

39. These decreases in rates and increases in usage have substantially increased the economic efficiency of the nation's telecommunications network. Moreover, there are indications that the economic benefits extend beyond the telecommunications sector and benefit the overall national economy. In particular, the Wharton Study finds that the beneficial effects of the limited SLCs are not restricted to the telecommunications industry alone but are transmitted throughout the rest of the national economy. It concludes that the cumulative effects of the implementation of SLCs on the U.S. economy already include an increase in the real GNP of \$6.0 billion (in 1985 dollars); an increase of nearly 10,000 new jobs; a reduction in the federal deficit by \$1.9 billion; and a reduction in overall price levels of about .1%.⁷² While we recognize that

maintain parity with interstate rates. These concurring reductions are also benefiting the national economy.

69 Since the implementation of subscriber line charges, from 1984 to 1986, there has been a two year growth rate of 21.52 percent in the interstate MTS and WATS (including both open and closed-end WATS) minutes. See Annual 1985 Access Tariff Filing, CC Docket No. 186-125, Phase I, Memo No. 3643 (released April 14, 1986). In addition, AT&T reports an increase of over 9% in its number of interstate toll messages from 1985 to 1986, alone. AT&T Comments at 13. This increased demand for interstate toll calling also has had a positive effect on the growth of interexchange competition.

70 NECA's midyear 1986 filing reported a 10% increase in access minutes of use between 1984 and 1985. See supra notes 17, 64.

71 In addition, Rochester states that the average monthly interstate usage increased from 38.47 million minutes for the seven months in 1984 to 45.01 million in 1985, and to 50.28 million in the first six months in 1986. Rochester Comments at 26. Moreover, Southwestern Bell states that its average interstate usage per switched access line per month has increased from 132.8 minutes in 1984 to 141.8 minutes in 1986. Southwestern Bell Comments at 14.

72 See Wharton Study, supra note 19 and accompanying text. In addition to the Wharton Study, a study completed by the Commission also concludes that ultimately U.S. consumers benefit from reducing prices to businesses because lower telecommunication costs for businesses result in lower prices

it is very difficult to quantify the exact dollar benefits provided by the implementation of SLCs, the record indicates that the implementation of SLCs has introduced tangible economic benefits that further the goal of economic efficiency.

40. Third, we find that the implementation of SLCs has reduced the unjust discrimination between the prices for special access and switched access services. With the introduction of SLCs, local exchange carriers have been able to make substantial reductions in CCL charges assessed for their interstate switched access services. This decrease in switched access charges has decreased the uneconomic differential between the rates for switched and special access services, thereby providing more subscribers with the incentive to remain on the switched telephone network.⁷³

41. Fourth, with this reduction in discrimination between service prices, the implementation of SLCs has helped to reduce the threat of uneconomic bypass. We reach this conclusion because we believe that service pricing plays an important role in service selection by large telecommunications users, including interexchange carriers and resellers.⁷⁴ The economic incentives for bypass by high volume users are incontrovertable when switched access is priced above cost and special access or other bypass services are priced at cost. Thus, to the extent that switched access charges have been more closely aligned with the relevant costs, we believe

of the products these businesses provide. At the outset, however, it finds that the direct benefits of implementation of the SLCs include price reductions, an increase in total interstate conversation minutes and reduced bypass. The study finds that the first \$2.00 of SLCs produced an annual net benefit to telephone users of about \$600 million in 1986. These benefits are due to the value to consumers of the additional calls made by them as a result of the decrease in prices. The difference between the value consumers place on the stimulated calls and the additional costs generated by those calls is net gain to society. Office of Plans and Policy Staff Study, Federal Communications Commission, Economic Efficiency Benefits of the Current Subscriber Line Charge (released January 20, 1987).

73 Keeping subscribers on the switched network will ensure efficient use of the switched network and ease the recovery of NTS costs by increasing the number of minutes over which these costs can be spread. It will also continue the support and recovery of some of the NTS costs assigned to the interstate jurisdiction. This support is particularly important in high cost areas, where it helps maintain affordable local exchange rate levels.

74 Moreover, we are aware that a significant portion of the interstate allocation of NTS costs currently continues to be recovered through usage-based charges on IXC's using switched access services. Currently,

that large customers have been provided significant incentives to remain on the public switched network, and uneconomic bypass has been delayed or averted.

42. Numerous commenters have provided studies and comments which support the conclusion that the existing SLCs have had beneficial effects on the short-term bypass problem. For example, New Jersey and Illinois perceive bypass as a significant threat to the viability of their switched message network.⁷⁵ In addition, the GAO Bypass Study confirms that bypass is a problem in several areas and concludes that 16 to 29% of large telephone customers currently bypass the switched network.⁷⁶ We are aware of the difficulties in quantifying the actual threat of bypass and its impact on the public switched network. Nevertheless, recognizing the clear incentives which can steer large users away from the switched network, we believe that the numerous studies and surveys provided in the record generally support our conclusion that uneconomic bypass is and continues to be a threat to the switched network as long as the price of switched access service remains significantly above economic cost. In fact, a recent report finds that "[n]ationwide the installed capacity of non-LEC short-haul, medium-capacity, point-to-point, transmission alternatives now exceeds the in-use capacity of equivalent Regional Bell Operating Company (RBOC) services. The non-LEC alternatives are by and large, price-competitive with LEC services as currently tariffed."⁷⁷

43. For all the reasons listed above, we conclude that the limited SLCs we recommended in 1984 have advanced the primary goals of this proceeding. We here propose a permanent solution to the issue of the proper method for interstate NTS cost recovery. A key element of this solution provides an increase in the maximum limit on nationwide subscriber line charges by increments of \$.60, \$.60, and \$.30. The SLC cap will increase to

approximately 62% of the interstate common line revenue requirement is presently being recovered from IXC's. NECA Filing Application No. 71 (filed October 23, 1986).

75 Ameritech and Illinois agree that the bypass threat in the Chicago area warrants immediate action. NYNEX and New Jersey make similar arguments regarding the extent and nature of the bypass risks in their areas.

76 In addition, it reports that as many as 53% of large telecommunications customers plan to initiate or increase their bypass activities in the future. See United States General Accounting Office, Telephone Communications: Bypass of the Local Telephone Companies (August 1986) (included as Appendix 1 to Southwestern Bell's Comments). LECs also provided extensive data demonstrating bypass incentives and detailing numerous examples of bypass. See supra para. 21.

\$2.60 on June 1, 1987, to \$3.20 on September 1, 1988, and with a final increase to \$3.50 on April 1, 1989.⁷⁸ We also recommend that the Commission increase the maximum flat-rate charge on embedded Centrex lines, coincidentally with the increase in residential and single-line business SLCs, to a \$4.00 cap on June 1, 1987, a \$5.00 cap on September 1, 1988, and a \$6.00 cap on April 1, 1989, or the full multi-line business subscriber line charge, whichever is less.⁷⁹

77 P. Huber, *The Geodesic Network: 1987 Report on Competition in the Telephone Industry* at 2.23 (January 1987).

78 We do not recommend the Unity 1-A proposal, which would increase the SLC to \$3.00 in June 1987 and \$4.00 in January 1988, and which also provided for optional subscriber line charge recovery above \$4.00, under certain conditions, on a study-area basis. We believe that the benefits of our recommended revisions to the existing mandatory pooling mechanism, discussed *infra* paras. 117-135, can be achieved by increasing the maximum limit on SLCs whichever is less to \$3.50, and we perceive no need for further increases beyond this level. Additionally, the Unity 1-A proposal did not delineate the circumstances necessary under its plan for a LEC to qualify for the optional SLC increase above \$4.00; we note, however, that the experimental tariff procedures which we established in 1984 and 1985, would encompass such plans.

In addition, we want to take this opportunity to address two outstanding petitions relating to NTS cost recovery. See *supra* note 10. The Rochester petition, which proposed to implement an experimental plan that would allow it full recovery of its interstate NTS costs through a SLC of approximately \$3.54, was referred to this Joint Board for consideration. MTS and WATS Market Structure and Amendment of Part 67, Order Inviting Comments, CC Docket Nos. 78-72 and 80-286, Mimeo No. 2736 (released February 21, 1986). The ILECs' petitions request authority to implement an experimental plan that would increase the residential and single-line business SLC in Illinois to \$3.13, and has been referred to this Joint Board. MTS and WATS Market Structure and Amendment of Part 67, CC Docket Nos. 78-72 and 80-286, Mimeo No. 2235 (released March 9, 1987). However, Rochester in its comments and the ILECs in their petitions state that if we recommend increasing SLCs up to \$4.00, each will withdraw their petitions. Although we believe that our actions will meet the objectives of these petitions, we do not believe that we presently are in a position to dismiss them. Therefore, we request that Rochester and the ILECs file petitions to withdraw their requests to increase SLCs or to update their petitions in light of the recommendations herein. Furthermore, any other petitioners wishing to withdraw proposals considered in this proceeding may do so. See *infra* note 146.

44. In conjunction with our proposed increases in residential and single-line business SLCs, we propose that the Commission mandate development of a comprehensive monitoring plan to be specified in a Recommended Decision and Order to follow shortly.⁸⁰ With regard to the universal service impacts of the subscriber line charge increases we recommend expansion of the Commission's present monitoring of telephone penetration rates. In particular, we anticipate that this enhanced monitoring program will be better designed to track the impact of SLCs on particular population subgroups, such as low income households. Moreover, we recommend that prior to any SLC increases in 1988 and 1989, the members of the Joint Board and the Commission conduct a 90-day study and review of the impact of SLCs to date. The Commission should then report to Congress and state regulators on the results.

45. We are taking a balanced and cautious approach by recommending a gradual phase-in of more modest SLC increases in this Order. We are persuaded that the record shows that limited SLCs have not had an adverse impact on universal service⁸¹ and have had significant positive

79 The subscriber line charge assessed embedded Centrex lines was increased on June 1, 1986, from \$2.00 to \$3.00, or the full interstate NTS loop costs, whichever is less. Embedded Centrex lines are those lines that were in service or on order as of July 27, 1983. All other Centrex lines have paid the multi-line business subscriber line charge since 1984. The distinction between new and embedded Centrex lines was deemed necessary to avoid the possibility that customers would abandon Centrex service for Private Branch Exchange (PBX) service before the state commissions had an opportunity to adjust intrastate rate structures to allow Centrex service to compete effectively with PBXs. See MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, Mimeo No. 139 at paras. 2-17 (released October 8, 1985). We believe that sufficient time has elapsed to allow state regulators to adjust intrastate rates and therefore recommend that flat-rate Centrex charges be increased to the full multi-line business SLCs. Our recommendation regarding increased SLCs for embedded Centrex lines is similar to that suggested in the Unity 1-A proposal and since no objections were filed to the Unity 1-A proposal to increase the SLC for these lines, all concerns regarding embedded Centrex pricing appear to have been alleviated.

80 See infra paras. 136-138.

81 What the record does reveal is that high charges assessed for commencing telephone service is one key factor keeping subscribers off the

benefits with regard to the other three goals of this proceeding--bringing efficiency gains, decreasing service price discrimination and mitigating of bypass incentives. Moreover, we believe that the concerns that we focused on during our consideration of SLCs two years ago do not loom as large at this time. First, substantial pressures on local service rates have dropped dramatically in the past few years.⁸² Second, we now have some experience with subscriber line charges as a method of NTS cost recovery. Thus, we believe that limited further steps in subscriber line charge recovery can bring about the same positive effects with minimal effects on our universal service goal.

46. Nevertheless, we are very sensitive to the position taken by several parties that past experience with SLCs may not necessarily assure the same favorable results in the future.⁸³ It is for this reason that we are proposing a very gradual schedule for implementation of these increases in this charge--more gradual than the schedule developed for the original subscriber line charge levels. We believe that our proposal to increase the maximum charge by two \$.60 and one final \$.30 increment, rather than \$1.00 increments, as well as to spread out the total increase over a 25 month period, addresses the universal service concerns by lessening the potential for any possible harm to subscribers that might result from increased subscriber line charges.⁸⁴ Moreover, our recommended

network. To address this problem, we are recommending an additional lifeline assistance program to offset these charges. See infra paras. 68-70. Furthermore, we are recommending that the benefits under the subscriber line charge waiver measures of the existing federal lifeline program increase as SLCs increase.

82 At the end of 1983, state commissions were faced with \$6.9 billion in pending intrastate revenue requests. By the end of 1984, the total value of pending revenue requests had fallen to \$3.7 billion; by December 31, 1985, the value of pending state rate requests was down to \$1.4 billion; and by December 31, 1986, pending revenue requests were down to a record low of \$323 million. See News Release, FCC Releases Summary of State Telephone Rate Cases, Mimeo No. 1567 (released January 20, 1987).

83 We note that several parties express a concern that the second dollar of the SLC has only been in effect since June 1986, and sufficient time to fully study its effect may therefore not have elapsed. While we recognize this concern, when we recommended the present limited SLCs in 1984 we expressly called for a reexamination of SLCs in 1986.

84 In addition, we note that ratepayers may benefit from recent changes in the federal tax laws, specifically the reduction in the corporate tax rate, which should result in substantial decreases in the LECs' total

schedule for implementing this final phase-in of SLCs for residential and single-line business subscribers includes a 90-day study period in advance of the final two increases. This will ensure effective monitoring by this Joint Board pursuant to our proposed plan, and will permit timely regulatory action in the event of any negative impact on universal service resulting from our recommendations.

47. While we have specifically addressed the universal service concerns, we believe that our recommendation for a more gradual phase-in of SLC increases will not sacrifice future progress we should achieve toward reaching our other three goals. We view our proposed increase in subscriber line charges as the linchpin in the integrated approach we are presenting in this Order to resolve all of the issues raised in the Further Notice. In particular, the increased SLC will allow for our proposed restructuring of the existing mandatory common line pooling system, discussed in detail below, by substantially limiting the disparities between CCL rates. This enables LECs to leave the mandatory pool without creating undue pressures to deaverage interstate toll rates.⁸⁵

48. A number of commenters, particularly state commissions, believe that further movement in implementing subscriber line charges may result in subscribers paying an undue proportion of NTS costs, with the IXCs paying less than their "fair share" of the cost burden. The pricing theories of other commenters and the Commission's original access charge decision call for a subscriber line charge that would ultimately recover all the interstate allocation of NTS loop costs from the end user except for high cost assistance.⁸⁶

49. We believe that our recommendation regarding NTS cost recovery strikes a proper balance among all users of the switched network. With our proposal, end users will pay for connection to the network on a flat-rate basis, thereby achieving the economic benefits of flat-rate recovery. At the same time, by maintaining SLCs at a \$3.50 cap, we will

revenue requirements. State commissions are, of course, free to deal with the reductions in intrastate revenue requirements in whatever manner they believe best serves the public. As an option, they may take this opportunity to reduce the basic local service rates charged to customers, or simply create a credit on the customer's bill, and thereby offset to some degree any impact of the increases in the SLC.

85 See discussion infra, paras. 117-119. This Joint Board is concerned about the potential adverse effects of widespread deaveraging of interstate toll rates. Thus, we recommend that the Commission continue uniform nationally averaged MTS and WATS rates for the dominant interexchange carrier.

ensure continued recovery of a substantial portion of NTS loop costs from the IXCs on a nationwide basis. Even with full implementation of SLCs in 1989, IXCs will be paying approximately 50% of the total interstate revenue requirement for those costs that are incurred by the exchange carriers independent of IXC usage of the network.⁸⁷ As a result, IXCs will not only continue to pay fully for those costs they directly cause by using the network (i.e., traffic-sensitive or directly assignable costs), but they will also continue to pay a substantial part, approximately 50 percent of the interstate allocation, of the fixed costs presently recovered through the NECA common line pool.⁸⁸

50. Additionally, we recommend that the residential and single-line business SLC in a particular study area be capped at the same level as the multi-line business SLC in that same study area. Furthermore, we recommend that LECs use the increased SLC revenues resulting from our recommendation to reduce their CCL rates according to the following principles. First, we recommend that the Commission require the LECs to apply the first \$.60 increase to the originating CCL charge, and thus limit the bypass threat on the originating end of the call, which is more susceptible to bypass. Second, with the further increases in SLCs, we recommend that the LECs consider the existing special access rates to determine the level of CCL charges necessary to limit bypass within their particular study areas.

51. Third, we believe that LECs have the responsibility to maintain some level of CCL charges on the terminating end of calls. Even with the proposed increase in SLCs, most LECs will have a number of costs that are not eligible to be recovered through SLC revenues and must therefore be recovered through CCL rates. These costs should include the

86 See supra note 5.

87 These costs include not only NTS local loop costs, but also other costs assigned to interexchange carriers such as CPE phase-out, inside wire phase-out, NECA expenses, certain pay telephone costs, high cost assistance, and lifeline assistance funding.

88 We believe that the substantial costs the IXCs will be paying under our proposal adequately addresses stated concerns that IXCs pay a fair share of the interstate revenue requirement. Some commenters, in particular state commissions, suggest that IXCs continue to pay an amount based on a relative use factor, e.g. a "subscriber line usage" factor, while other commenters, specifically LECs, suggest that IXCs pay an "appropriate" portion. We recognize the concerns that IXCs should continue to pay for use of the local

revenue requirements for: 1) inside wire, which is in the process of being phased-out, but still will be part of the revenue requirement paid by the IXCs until 1993; 2) a portion of CPE, which was not detariffed under the Commission's order on detariffing of CPE; 3) pay telephone, which currently amounts to over \$500 million in interstate revenue requirement and is expected to grow in the future; and 4) Long Term Support (LTS) and (any Transitional Support (TRS)) paid by those LECs that do not participate in the NECA common line pool.⁸⁹

52. Pursuant to the pooling changes we recommend herein, all LECs that opt out of the NECA common line pool will be responsible for LTS contributions, and some LECs will be responsible for TRS (with TRS contributions ending in 1994). We recommend that the Commission require LECs to recover their LTS and any TRS contributions through a CCL rate applied on terminating access minutes. This requirement is designed to ensure that IXCs will pay reasonable CCL rates on each terminating access minute.

53. In addition to these revenue requirements, most LECs will have a residual revenue requirement for their NTS loop costs in a majority of their study areas that will not be recovered through their SLC revenues.⁹⁰ We recommend that LECs with residual NTS loop costs, not recovered through SLCs, also recover these costs primarily through terminating CCL charges.

54. Finally, we decline to adopt the suggestions by some state commissions that jurisdictional separations changes be considered at this

loop, and we believe that approximately 50% of the interstate revenue requirement constitutes a significant level of payment and is responsive to those concerns.

89 See infra paras. 99-100, 124.

90 Based on current estimates, certain study areas will have all their NTS loop costs recovered through the SLC revenues with a \$3.50 SLC in 1989. If the total interstate revenue requirement for the NTS loop costs increases

time.⁹¹ We recently instituted the 25% interstate basic allocation factor presently in the second year of an eight-year phase-in. That allocator was adopted after careful consideration of a comprehensive record, and we believe that it remains the correct approach to jurisdictional cost allocation. Moreover, we do not believe that reducing the interstate cost allocation is an appropriate response to the question of the proper approach to NTS cost recovery. Reductions in the interstate allocator will merely result in increases in intrastate revenue requirements, which may necessitate a concomitant increase in intrastate rates. These increases could potentially inhibit further progress toward attaining our goals in this proceeding and could have particularly harsh effects on rural high cost areas and many small LECs. In addition, much of the efficiency gains and other benefits we have experienced so far might be lost with such action.

over time and SLCs are not increased beyond \$3.50, an even smaller number of LECs will be in a position to recover all their NTS loop costs through their SLC revenues.

91 These suggestions were presented as an alternative to further subscriber line charge recovery from end users.

V. Federal Lifeline Assistance Measures

A. Comment Summary

55. Among the IXC's, AT&T and US Sprint support the current federal lifeline assistance program⁹² and believe that assistance to low income households is an important complement to subscriber line charges. AT&T supports increasing the matching federal benefits if SLCs are increased.

56. The individual local exchange carriers had a variety of reactions to the federal lifeline program. CP National and United Telephone state that it is too early to evaluate the lifeline program. Both NYNEX and Southwestern Bell support the existing federal lifeline program, noting that the availability of low-cost local service options and other measures to assist low income subscribers also work to preserve universal service.⁹³ Alternatively, Ameritech, Rochester, and SNET maintain that low-cost service options in their areas obviate the need for any federal lifeline assistance. Ameritech states that federal lifeline assistance is unnecessary since it is in its interest to maintain high subscribership levels. On the other hand, Puerto Rico Telephone argues that the federal lifeline assistance program should be expanded and that the Commission's

92 As discussed supra para. 11, this program consists of a waiver of the subscriber line charge for qualifying low income households in states providing certified matching assistance.

93 New York Telephone Company provides additional assistance to its low income subscribers with respect to the installation and maintenance of telephone service. These provisions include: 1) elimination of the deposit requirement for most new customers including all subscribers receiving public assistance; 2) adjusted payment schedules for subscribers with fixed incomes that reflect the subscriber's periodic receipt of income; 3) a 10-month deferred payment plan for arrears of up to \$450; and 4) a 12-month interest-free deferred payment option for non-recurring service connection charges. Southwestern Bell, in addition to its "budget," "thrift," and regular measured service options, allows residential customers to spread the initial installation charge over a fixed number of months. Additionally, it does not require a security deposit based on interexchange carrier toll billing; customers who have paid a debt to an IXC for which Southwestern Bell provides billing and collection services will not be asked for a security deposit, even though they may have a history of delinquency, and customers who are temporarily suspended for non-payment are not asked to provide security deposits based on IXC billing as a condition for restoration of service.

universal service goal should be redefined as promoting subscribership levels, not merely preserving them.⁹⁴

57. The sponsors of the Unity 1-A agreement do not support the federal lifeline assistance program as it is presently established. The Unity 1-A agreement states that lifeline assistance should be established, where necessary, on a state-by-state basis, with qualifications determined by appropriate state organizations. The Unity 1-A agreement also provides that funding for lifeline assistance should be derived from sources other than telephone services, although it does not propose any specific funding mechanism.

58. While a number of state commissions commenting in this proceeding generally support continuing the present federal lifeline assistance program,⁹⁵ a few state commissions recommend some modifications to the current plan. Michigan proposes that federal assistance, which matches the amount of state-provided benefits up to the full amount of the SLC, be increased with any additional increases in SLCs. Texas contends that there should be added flexibility in the federal program; the present federal program would require it to conduct administrative proceedings for each of the 72 LECs operating in Texas, in addition to obtaining legislative approval, before it could qualify for federal funds.⁹⁶ California maintains that the federal lifeline assistance program should not require verification of subscriber income or other eligibility criteria as a prerequisite for qualifying for the full federal assistance. It recommends that the federal program permit the state lifeline program to contain provisions for self-certification.⁹⁷

94 Puerto Rico Telephone maintains that because 75% of its population lives below the poverty level and only 50% of its population has telephone service, it is unable to take advantage of the matching federal lifeline program since it would essentially require subsidizing certain low income households by increasing the charges that other low income families pay.

95 These include commissions in Pennsylvania and Michigan.

96 Texas notes that it has approved a discount rate for Southwestern Bell customers, which is not subject to any means test as required by the federal lifeline assistance program. It argues that the federal program should be more flexible and allow for the development of programs, like this discount rate, that it believes may be better suited to achieving the goal of universal service in particular areas.

97 Pacific Bell supports California's request for elimination of the verification requirements for the federal lifeline assistance program. In contrast, US West contends that verification of eligibility must be a part

59. Furthermore, the District of Columbia argues that it is too soon to evaluate the federal lifeline assistance program since it was only established in early 1986.⁹⁸ In late-filed comments to the Further Notice, the Vermont Public Service Board (Vermont) presented a proposal that included a revised federal lifeline assistance fund.⁹⁹ In deriving its proposed lifeline fund, Vermont reviewed the Census Bureau's data regarding telephone penetration and poverty levels, and estimates \$75 million as a reasonable, conservative estimate of the lifeline funding that should be provided annually by mandatory pooling.¹⁰⁰ The proposal did not specify how

of any certified state lifeline assistance plan. It argues that, while states are allowed to devise whatever social policies their citizens may approve, they should not be allowed to pass the costs of those programs onto citizens of other states. Furthermore, US West claims that California has not offered facts to support its conclusion that there has been no abuse of the California lifeline program as a result of its provision for self-certification of income eligibility.

98 The District of Columbia notes that its lifeline program was only implemented in June 1986, and states that it is as yet unable to draw any conclusions about the effectiveness of its plan.

99 Even though Vermont submitted its comments on October 28, 1986, almost one month after the close of the pleading cycle for the Further Notice, we will consider the proposals raised in them, since no party will be prejudiced by such consideration and it will aid us in completing a full disposition of all relevant issues. In its comments, Vermont proposed that the mandatory common line pool be dissolved within two years and replaced with a mandatory contribution for a revised high cost fund, lifeline assistance and separations transitions. The high cost fund proposal is discussed infra para. 82. Regarding the separations transition element of its plan, Vermont maintains that several recent separations changes, which shift dollars to the intrastate jurisdiction, have been accompanied by transitions over reasonable time periods. Vermont contends that these transitions (e.g., the revenue needed to fund the transition to the nationwide 25% basic allocator was estimated at \$1.409 billion in 1985, declining to \$24 million in 1993) should continue to be funded through mandatory contributions. As the Vermont proposal was late-filed, no parties have had an opportunity to comment on it.

100 To arrive at this number, Vermont first estimated that under the present federal lifeline assistance program, the maximum "exposure" would be \$242.7 million per year in reduced CCL charge revenues (\$2 per month for those low income households with telephones (85% of 11.9 million low income households based on March 1985 census figures in 50 states). It then

these funds would be collected or distributed.

60. Several consumer groups contend that the federal lifeline assistance program is not effective.¹⁰¹ Specifically, they argue that the program does not reach a majority of those who need assistance. NASUCA thus concludes that the Commission should focus on maintaining reasonable local rates rather than on establishing a federal lifeline program. AARP, on the other hand, supports increasing the federal assistance measures and makes specific suggestions for additional benefits in such areas as connection and installation charges, and free local calling, as well as assistance with the basic local flat-rate service charge. UCCOC also suggests similar goals and changes to the lifeline assistance program.¹⁰² While the CFA argues that the Commission must implement a more comprehensive lifeline program, it does not offer a specific proposal. However, it does contend that none of the certified state lifeline assistance programs offer any reduction in the high costs of installation, connection or deposits, which it views as obvious barriers to low income subscribership.¹⁰³

61. The Ohio Office of Consumer Counsel recommends that lifeline assistance be available as a one-time waiver of \$24.00 (and not restricted to a monthly waiver) to counterbalance non-recurring service

assumed what it viewed as a more realistic figure for participation in the lifeline program (15 states including 40% of the U.S. poverty population, and with 1/3 of those states offering only a partial credit (40% of 85% of 11.9 million poverty households with an average credit of \$18 per year)) and arrived at an estimated \$72.8 million federal lifeline fund requirement.

101 These groups include AARP, Consumers' Counsels, the District of Columbia Office of the People's Counsel, the NASUCA and the UCCOC.

102 These include: 1) setting an eligibility level at 125% of the federal poverty level; 2) allowing for a minimum of 100 calls per month without added charges in areas with measured or message service; 3) waiving connection or reconnection fees or allowing deferred payment plans for these charges; 4) decreasing rates for pay telephones and allowing incoming calls on these phones; 5) providing for advertising of the availability of the assistance program; and 6) allowing for self-verification of eligibility.

103 Additionally, CFA asserts that two of the certified state programs offer lifeline assistance only to the elderly, although it also argues that the Commission should allow states to decide for themselves whether any eligibility requirements beyond self-certification are necessary or appropriate.

installation charges and customer deposit requirements. Furthermore, it suggests that the Commission should allow for SLC waiver applications by individual subscribers and not just limit them to states or LECs, and that these waivers should not be tied to any matching state assistance.

62. Among user groups and government agencies, Ad Hoc, ICA, and NTIA support the current federal lifeline assistance program. DOJ suggests that lifeline assistance should be funded from general tax revenues rather than through interstate toll charges. CWA, however, states that Congress has already rejected the idea of general public funding for the federal lifeline assistance program.

B. Discussion

63. In late 1985 we recommended, and the Commission subsequently adopted, the existing federal lifeline assistance program in order to preserve universal service and promote subscribership among low income households.¹⁰⁴ We recommended this program because subscribership levels among low income households, while stable, remained below the national average. Since January 1986, ten states and the District of Columbia have been certified for full assistance under the federal program,¹⁰⁵ and many more are moving toward adopting a state lifeline program and requesting federal certification.

64. In the Further Notice, the Commission requested an evaluation of this program and recommendations for further action. As many of the certified state plans are just beginning to take effect, it is not possible to draw any final conclusions about the effectiveness of the plans at this time. We do believe, however, that this program is a properly targeted response to our concerns regarding the general level of subscribership among low income groups as we proceed with final implementation of subscriber line charges. We are confident that the existing federal lifeline assistance program will continue to expand with more low income telephone subscribers receiving these lifeline benefits.

104 See supra note 11 and accompanying text.

105 Certified lifeline programs are in operation in Arizona, Arkansas, Colorado, the District of Columbia, Hawaii, Maryland, North Carolina, Oregon, Utah, Vermont, and West Virginia. Additionally, both California and New York have lifeline assistance programs pursuant to the initial federal subscriber line charge waiver proposed in the Recommended Decision and adopted in the Subscriber Line Charge Order.

65. In this Order we recommend that the current federal lifeline assistance benefits be increased to correspond with the proposed increases in subscriber line charges. The Lifeline Order states that the Commission will "provide matching assistance, up to the full amount of the subscriber line charge, for subscribers receiving benefits under a qualifying state and local telephone company assistance plan."¹⁰⁶ This language contemplates increasing the amount of the waiver should the amount of the SLC increase. For example, with a \$3.50 SLC and a matching state contribution, the present federal lifeline assistance program will generate benefits of \$7.00 per month for qualifying subscribers to offset interstate and local charges.¹⁰⁷

66. Several commenting parties sought further modification and expansion of the existing federal lifeline assistance program. We cannot endorse California's recommendation that the income verification requirement in the existing lifeline program be abandoned. This verification requirement serves two purposes: first, it ensures that those subscribers receiving the assistance are in fact eligible, thereby avoiding a situation where benefits are extracted by ineligible subscribers through fraudulent certifications; and second, annual recertification serves to update the eligibility roles to ensure that those subscribers receiving assistance have remained eligible.¹⁰⁸ We consider the verification requirement to be an integral part of the existing lifeline assistance program. For similar reasons, we do not accept Texas' request for increased flexibility in the eligibility requirements. Elimination of the means-test from the eligibility criteria for federal benefits, for example, would result in an assistance program that is no longer targeted to low income households, and susceptible to widespread abuse.

67. We also decline to adopt suggestions that the existing federal lifeline assistance program should not require any matching state assistance. We believe that requiring implementation of a state lifeline program as a prerequisite to being certified for federal benefits under the existing lifeline program ensures that qualifying subscribers receive

106 See Lifeline Order, supra note 11, at para. 1.

107 Benefits will be even greater if the monthly state contribution exceeds \$3.50 per month per qualifying subscriber.

108 Moreover, as US West points out, since federal lifeline assistance benefits are funded through interstate toll charges, any state program that is not properly targeted would be unfairly subsidized by ratepayers in other states. It is entirely reasonable for the states that will be funding this assistance to expect that measures will be taken to ensure that benefits are directed to the intended recipients.

assistance to offset both their local service costs and the federal subscriber line charge. This approach fairly distributes the responsibility for preserving telephone penetration levels to both the federal and state jurisdictions.¹⁰⁹ Finally, we recognize that DoJ's proposal that the funding for the lifeline program come from the general tax revenues is not presently feasible, although this approach is attractive in theory.¹¹⁰ At this time, we believe that federal lifeline assistance programs should be supported through increased charges for other telecommunications services.¹¹¹

68. As stated earlier, we do not believe that SLCs have had, or will have, a deleterious effect on universal service. However, a number of commenters in this proceeding have directed our attention to the effect of high non-recurring charges, such as those assessed for commencing telephone service, on universal service.¹¹² The existing federal lifeline assistance

109 The Ohio Consumer Counsel's suggestion that consumers or their representatives be allowed to file for certification was rejected on reconsideration of the Lifeline Order as infeasible to implement in light of the requirement for matching state assistance. See Lifeline Reconsideration Order, *supra* note 11, at para. 7.

110 The Unity 1-A agreement appears to include a similar proposal.

111 We recognize that there may be benefits from funding lifeline assistance through tax revenues and, of course, states are free to fund their share of lifeline benefits from any intrastate source, including general or special tax revenues. However, at the present time, the appropriation of federal tax revenues for lifeline purposes appears unlikely. Furthermore, as long as lifeline benefits are properly tailored, we believe that they can be funded through interstate toll rates without unduly affecting the efficiency gains that we should continue to obtain from more economic pricing.

112 A study prepared by the Michigan Divestiture Research Fund, sponsored in part by the Michigan Citizens Lobby, found that installation charges and security deposits were cited as the primary cause for the lack of telephone service. Similarly, in a survey of customers in Tucson, Arizona, and Salt Lake City, Utah, conducted by US West, installation and deposit costs were identified as "too high." AARP proposed a waiver of 50% of the connection and installation charges, UCCOC suggested a full waiver of the charges or deferred payment plans for these charges, and the CFA argued that high installation and connection charges, as well as high deposit requirements, are obvious barriers to subscribership by low income households.

Moreover, a recent survey conducted by CFA, AARP and AT&T indicates that almost three quarters of those without phone service perceive

program specifically provides that the state matching assistance may be provided through reduced connection charges or customer deposit requirements. Among certified programs, those in Maryland, Hawaii, Arizona, Utah, and the District of Columbia offer discounts or extensive benefits applicable to these non-recurring charges and deposit requirements. However, we believe that more can be done to directly address the problem of high non-recurring charges for low income households that are not presently on the network,¹¹³ thereby not only preserving, but also increasing, universal telephone service. Toward this end, we are adopting part of the proposals put forward by AARP and UCCOC and are recommending an additional lifeline assistance program to offset the charges assessed for commencing telephone service.

69. Specifically, we recommend a two-part program to link low income households to the network.¹¹⁴ Under the first part, the federal jurisdiction will provide assistance sufficient to pay one-half of the charges, up to a \$30.00 amount, assessed for commencing service for qualifying.¹¹⁵ Under the second part of our recommended program, where a

that they cannot afford the large front-end costs of obtaining phone service -- the installation charge and deposit. CFA, AARP, AT&T, Summary Statement, Joint Telecommunications Project (February 12, 1987).

113 Approximately 5 million low income households are presently without telephone service.

114 A lifeline assistance plan could include either or both parts of this new recommended program.

115 Under this program, federal funds could be used to offset state-tariffed charges incurred in connecting a subscriber to the network. In most cases, such charges cover the administrative costs of opening an account and the costs of turning the switch at the central office. We set the cap for federal assistance at \$30.00 based on our calculations that the national average for these charges is \$45.17 for rotary service and \$46.51 for touch tone service. Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, Trends in Telephone Service (February 2, 1987). Excluded from this assistance program are the costs of inside wiring, which have been detariffed, and security deposit requirements. We do not believe that it is feasible to structure a federal assistance program to offset security deposit requirements because the amount required for a deposit may depend on factors such as geography and an individual subscriber's credit history. As indicated above, we strongly encourage LECs to reduce or waive security deposit requirements for low income customers who do not have poor credit histories.

LEC offers a deferred payment plan for service commencement charges and it does not assess the subscriber any interest charge, federal assistance will be available to that LEC to cover the interest costs on an amount up to \$200.¹¹⁶

70. Connection assistance will be available for one telephone line per household, at a subscriber's principal place of residence. We further recommend that each state administer this service commencement assistance program within its jurisdiction in conjunction with the LECs. Before receiving federal assistance, a plan submitted by a state commission¹¹⁷ should be certified in the same manner as the existing lifeline program¹¹⁸ as meeting the following criteria to ensure that the assistance is properly targeted: 1) the customer requesting assistance has lived at an address or addresses where there has been no telephone service for at least three months immediately prior to the request for assistance; 2) assistance is available, at most, once every two years; 3) the customer cannot be a dependent (as defined by the federal income tax code) under the age of 60; and 4) the customer must meet state-determined income criteria. The first two criteria are to be verified and such verification should be easily done by using LEC records. The final two criteria may be self-certified.¹¹⁹ However, if a state determines that it is administratively or economically infeasible for a LEC to verify criteria #1 and #2, when the necessary information must be provided by a LEC or agency outside the state, or in other specified circumstances, then self-certification of these criteria will be allowed and criterion #4 must be verified by the state or LEC.

116 We assume that any deferred payment schedule will not be longer than 12 months. Also, we recommend that the interest rate used in this part of the program be determined based on the rate paid on ten-year Treasury Bills. See §67.731(a)(4)(ii) at Appendix B.

117 We recommend that plans be submitted only by the state commission or its delegatee, which could be a LEC, in order to avoid the possibility that numerous, conflicting plans for the same jurisdiction would be filed.

118 The Commission has delegated to the Common Carrier Bureau the authority to certify state lifeline plans.

119 We require the income criterion in order to properly target those in need of this assistance. In contrast to the subscriber line charge waiver measures of the existing federal lifeline programs we will allow self-certification here (except under the circumstances discussed above) because we believe that the other criteria for eligibility sufficiently reduce the potential for abuse of this program.

71. We are making one additional recommendation, dealing with the funding mechanism for this program as well as for the existing federal lifeline assistance program. This proposal is consistent with our recommendations to the Commission that it adopt, with some modifications, the proposals regarding pooling and high cost assistance set out in the Unity 1-A agreement.¹²⁰ The common line pooling modifications of the Unity 1-A agreement, which we adopt with some revisions, make no provision for continued funding of federal lifeline assistance. Therefore, in order to ensure that the federal lifeline program continues to be funded on a nationwide basis,¹²¹ we recommend that NECA bill the IXC's directly for the interstate lifeline revenue requirement, covering both the existing SLC waiver lifeline program and our recommended service commencement assistance program. IXC's that have at least 1) 1% of the "1+" or "presubscribed"¹²² common lines presubscribed to interexchange carriers in all study areas, or 2) 5% of the presubscribed lines in any study area and a minimum of 1000 presubscribed lines in that study area, will be responsible for paying lifeline assistance. A flat monthly charge assessed eligible IXC's to recover these funds will be calculated semi-annually based on all of the common lines presubscribed to eligible interexchange carriers.¹²³

72. Our proposed IXC billing allocation mechanism for lifeline funding is similar to the one proposed in Unity 1-A for the high cost fund,¹²⁴ and should be easy to administer. LEC's participating in the

120 See infra paras. 72 and 87.

121 Under present practice, LEC's in states with certified lifeline assistance plans estimate the number of lifeline subscribers, determine the resulting annual subscriber line charge revenue loss, and report that amount to the NECA common line pool as an addition to the CCL revenue requirement. Thus, absent the proposed modification for IXC billing under our recommended pooling revisions, carriers that file their own tariffs could be required to recover the cost of lifeline service within their own service areas.

122 We use the term "presubscribed" to indicate all "1+" access lines, including both Feature Group C and D services.

123 We find this funding mechanism most compatible with the balance of the recommendations we propose here. Thus, we decline to adopt Vermont's suggestion, submitted as part of its depooling proposal, that a fixed revenue amount be selected and established in a "pool" for lifeline assistance.

124 See infra paras. 75-77.

federal lifeline assistance programs should estimate and report annually to NECA the number of qualifying subscribers under all lifeline assistance programs, as well as the dollar amount of benefits per subscriber. NECA should in turn report these data to the Commission.¹²⁵

73. We believe that the additional lifeline assistance program recommended here is easily implementable¹²⁶ and should be quite effective in removing a major barrier to initiation of telephone service by low income households.¹²⁷ While we encourage states to match the direct offset of the charges assessed for commencing service, our recommended plan does not require the states to provide matching funds. Moreover, we strongly urge the states and local exchange carriers to develop deferred payment plans for service commencement charges, as well as provide reductions in, or waivers of, security deposit requirements for low income customers who do not have poor credit histories.

74. Furthermore, other measures, beyond federal and state financial assistance, are important complements to these universal service efforts. We believe that the availability of local service options, such as the various state low-cost or budget services, contribute to maintaining universal service.¹²⁸ Most of the LECs have alternative service options

125 Reports to the Commission and review by Commission staff should help ensure that these estimates and calculations are reasonable.

This new billing mechanism for lifeline, and for high cost assistance, will not become effective until April 1, 1989, when our recommended pooling changes will begin. See infra. In the meantime, funds for both the new and existing lifeline plans will be recovered through the nationally averaged CCL rate.

126 This new federal lifeline assistance program does require some separations changes to ensure that costs and revenues are properly aligned between the jurisdictions. Our proposed rule changes are contained in Appendix B.

127 We wish to stress that this additional assistance program is not intended to supplant the present subscriber line charge waiver measures of the existing lifeline program. We encourage states and LECs that have not yet implemented the existing program to develop qualifying lifeline assistance plans as soon as possible. Furthermore, we recommend that the Commission work closely with states that have already received federal certification for lifeline assistance plans to allow them to qualify quickly for receipt of additional federal funds to offset increases in subscriber line charges.

available to their customers and many of these carriers have an increasing number of customers subscribing to them. We strongly encourage all LECs to make alternative service options available and to assist in the development and administration of federal assistance measures in order to ensure that telephone service is universally available.

VI. High Cost Assistance

A. Comment Summary

75. Since many of the comments dealing with high cost assistance focused on the specific proposal set out in the Unity 1-A agreement, we will briefly describe it here. Under the Unity 1-A proposal the high cost assistance formula would be retargeted to give additional benefits to LECs with fewer than 200,000 access lines and to decrease assistance to LECs with greater than 200,000 access lines.¹²⁹ The sponsors of Unity 1-A claim, based on 1985 NECA figures, that their targeting of the high cost measures

128 According to a recent AT&T survey, all states and the District of Columbia offer such services. See AT&T, Local Exchange Rates (March 10, 1987) (a periodic survey conducted by AT&T on a state-by-state basis identifying the lowest local exchange tariff rates in effect).

129 "Small and medium-sized" LECs (those with 200,000 or fewer lines) would be divided into three categories: (i) those with loop costs equal to 0-115% of the national average loop cost would be allowed no additional allocation of costs to the interstate jurisdiction; (ii) those with loop costs equal to 115-150% of the national average would be allowed an additional interstate allocation of 65% of the costs in that band; and (iii) those with loop costs greater than 150% of the national average would be eligible for an additional interstate allocation of 75% of those costs. Large companies (those with more than 200,000 lines) would be divided into five categories: (i) those with loop costs equal to 0-115% of nationwide average loop costs would be allowed no additional interstate allocation; (ii) those with loop costs of 115-160% of the national average would be allowed an additional interstate allocation for 10% of the costs in that band; (iii) those with loop costs between 160-200% of the national average would be allowed an additional interstate allocation of 30% of the costs in that band; (iv) those with loop costs equal to 200-250% of the national average would be allowed an additional allocation of 60% of the costs in that band; and (v) those with loop costs greater than 250% of the national average would be eligible for an additional interstate allocation of 75% of the costs in that band.

will decrease the overall size of the high cost fund from \$448 million to \$390 million, an approximate reduction of \$58 million. They also maintain that the proposed changes will increase from 53% to 83% the proportionate share of high cost fund assistance paid to LECs with less than 200,000 lines.

76. The Unity 1-A proposal further provides that the high cost assistance formula be reviewed in the future if it appears that other factors, such as separations changes, would create unreasonably high rates for local service. In addition, because of the pooling revisions proposed in the Unity 1-A agreement,¹³⁰ the IXC's will be billed directly for high cost funds through a separate pool administered by NECA with the charges based on the proportion of each IXC's "1+" access lines.¹³¹

77. The Unity 1-A sponsors assert that their high cost assistance proposal: 1) simplifies the pooling and cash flow operations by separating high cost assistance from the CCL rate; 2) avoids calculating a high cost assistance charge for each LEC when several LECs may have diverse rate structures; 3) continues the practice of recovering high cost assistance funds from IXC's; 4) centralizes billing and collection for these funds; and 5) promotes and emphasizes the national interest in maintaining universal service.

78. IXC's did not have extensive comments addressed to the high cost assistance issues. AT&T supports Unity 1-A's retargeting of high cost assistance, claiming that the revision is fully consistent with the Commission's purpose of assuring that telephone rates remain reasonable even in high cost areas. US Sprint generally notes that the high cost assistance program should have narrowly drawn guidelines so that the level of assistance does not exceed the amount required to target subsidies to specific firms. Consequently, US Sprint argues that the level of the firm-specific subsidies should be dependent on the economic characteristics

¹³⁰ See infra paras. 98-100.

¹³¹ The Unity 1-A proposal further provides that only those IXC's with over 1% of the "1+" access lines (i.e., those lines provided by premium access services, Feature Group C and 'D services) will be billed for the high cost fund. Each LEC would report to NECA the number of "1+" access lines associated with each IXC serving a study area. NECA would compute and assess the charge on an annual basis, and administer the fund, including the direct billing to the IXC's as well as the distribution of revenues to qualifying LEC's.

as well as the NTS loop costs in each LEC's service area, recognizing distinctions between urban and rural, and large and small, LECs.

79. In general, the LECs express strong support for the high cost assistance proposal in the Unity 1-A agreement. While Ameritech maintains that the Unity 1-A proposal is presently sufficient to assist the high cost LECs, it argues that at some point the high cost fund should be modified to eliminate support for the high cost study areas of the large LECs. In this regard, Ameritech proposes that the eligibility requirements include criteria that would evaluate the current circumstances of the LEC before determining whether the LEC is eligible for high cost assistance. For example, Ameritech suggests criteria such as an evaluation of a LEC's pricing structure, the availability of lifeline assistance for its customers, and an evaluation of the company's local rate levels. Cincinnati Bell contends that only those companies remaining in the voluntary pool under the Unity 1-A proposal should receive high cost assistance. SNET continues to support high cost assistance but maintains that the measures should be subject to continual review to ensure limited and properly targeted support.

80. In its separate comments, OPASTCO, one of the Unity 1-A sponsors, proposes an additional mechanism that would provide further assistance to LECs with 50,000 or fewer access lines. The proposed formula is designed to assist small LECs in absorbing the cumulative effect of all cost shifts to the intrastate jurisdiction.¹³²

81. Among the state commissions, Arkansas expresses support for the Unity 1-A proposal for high cost assistance,¹³³ although it argues that

¹³² The OPASTCO plan would provide for an additional interstate cost allocation for a carrier if, after calculating a surrogate number for the cost of basic local service over a two year consecutive period: 1) the surrogate rate calculated for the second year exceeds the first year's calculation and equals or exceeds \$14.00; and 2) the increase in costs during the second year exceeds by 20% the number calculated for the first year. Then, any increase above the 20% could be recovered from the OPASTCO high cost fund. This proposal is supported by Waitsfield-Fayston Telephone Company, et al., and Lackawaxen Telephone Company, which maintain that the current high cost formula fails to protect smaller LECs from the cumulative effects of NTS cost shifts to the local jurisdiction resulting from recent federal decisions.

¹³³ Arkansas recommends, however, that the high cost assistance formula proposed in the Unity 1-A agreement be changed to be consistent with Arkansas' proposal to move from the 25% basic interstate allocator to a SLU-based interstate allocation. See supra note 40.

the eligibility requirements should include some consideration of the differences among geographic areas. Consequently, it proposes that eligibility for this assistance should be evaluated based on current local service rate levels rather than on LEC size. NTCA argues that high cost assistance should not be tied to local rates. It maintains that including an evaluation of local exchange rates as a criterion for eligibility would necessarily have to include some determination concerning the size of the local calling area, the community of interest, and short-haul toll rates. NTCA contends that such a complex rule would be impossible both to construct and implement.

82. As part of the proposal it submitted in late-filed comments, Vermont presented a revised high cost assistance mechanism. To qualify for support under the Vermont plan, a LEC must have a composite index of at least 115% of a national average index. The index would be composed of three equally weighted factors — density,¹³⁴ cost,¹³⁵ and basic local rates.¹³⁶ The high cost fund proposed by Vermont would be of indefinite duration and additional support from a mandatory common line contribution would be available for LECs that have not yet modernized.¹³⁷ Other state

Michigan expressed general support for retargeting high cost assistance to smaller, high cost LECs but did not comment on the specific changes suggested in the Unity 1-A proposal.

134 The "density" factor is composed of two subfactors, the first reflecting necessary outside plant costs by dividing the number of subscribers by the number of route miles, and the second reflecting switching costs by dividing the number of subscribers by the number of central offices. These two subfactors are normalized to reflect the fact that line measure is often two orders of magnitude (100x) greater than office density, and the factors are then weighted according to the relative amounts of central office investment and local outside plant investment.

135 Vermont contends, without further explanation, that the cost factor can be measured by the current measurement of the level of NTS costs, claiming that the level of NTS costs appears to be directly correlated to rapid growth.

136 This is the lowest (or highest) flat rate for local service available to a residential customer in a study area (or a derived rate if no flat rate is available). Vermont argues that including basic local service rates in the index provides the most support for those LECs that already have high rates and requires those with low rates to bring their charges more in line with the national average before support is provided.

137 In a subsequent pleading, late-filed on December 15, 1986, Vermont

commissions were silent on proposed changes to the high cost assistance measures.

83. Among user groups, Ad Hoc contends that the assistance provided through the high cost fund is totally untargeted, since there never has been any demonstration that a customer's ability to afford telephone service is in any way correlated with whether the LEC serving them experiences high costs. Ad Hoc concurs in any efforts to direct the assistance more accurately to those customers in need of it, but is not convinced that the Unity 1-A proposal will accomplish that objective. Finally, both DoJ and NTIA support Unity 1-A's retargeting of high cost assistance, although NTIA believes that incentives should be built into the system to encourage LECs to operate efficiently. NTIA also suggests that supplemental support be provided to small LECs based on certain objective criteria related to local service rate levels.

B. Discussion

84. In 1983, this Joint Board first recommended certain jurisdictional separations changes to assist subscribers in areas of the country that have high NTS loop costs.¹³⁸ These high cost assistance measures, adopted by the Commission,¹³⁹ permit study areas with higher than average NTS loop costs to allocate certain additional costs to the interstate jurisdiction (above and beyond the basic interstate allocation). These costs are presently recovered through usage-based charges paid by the interexchange carriers. This assistance is designed to reduce the intrastate cost allocation and thereby keep local service rates lower than they otherwise would be in high cost areas.

submitted additional data on the economic effects of its high cost fund proposal. In that filing, it modified its original proposal by deleting the incentive for modernization and by providing a simpler method for measuring density.

138 Amendment of Part 67, Second Recommended Decision and Order, 48 Fed. Reg. 46,556 (1983). This recommendation was made in conjunction with our recommendation for a transition to a basic 25% interstate allocation factor for local NTS loop costs.

139 Amendment of Part 67, Decision and Order, 96 FCC 2d 781 (1984). The original high cost assistance measures were modified slightly in our previous examination of the issues being considered here. See Recommended Decision, supra note 9, at paras. 46-73.

85. In the Further Notice, the Commission requested comments on the effectiveness of the present high cost assistance program and recommendations for further action. Since the high cost fund is being phased-in over an eight-year period and 1986 was the first year of that phase-in, the record provides a limited amount of information regarding the effectiveness of the present program. Nevertheless, we believe that the rationale for our original proposal for high cost assistance remains valid, and we continue to support high cost assistance as a sound means of fostering universal service. As a rule, many of the factors that result in high loop costs, such as population density and geography, are beyond the control of high cost companies. The additional adjustment allowed pursuant to the high cost fund alleviates the need to recover some of those high loop costs through increased local service rates. We believe that measures, such as high cost assistance, designed to ensure that local service rates remain at reasonable levels throughout the country, represent an important aspect of our program to preserve universal telephone service.

86. A number of commenting parties proposed changes in certain aspects of the existing high cost fund. We support the proposal to retarget the current high cost fund as outlined in the Unity 1-A proposal and recommend that the Commission adopt that proposal with some minor modifications. In fact, this modified proposal is similar to a formula we previously considered during our examination of high cost assistance measures in 1984. We rejected this particular formula at that time because we believed that further study was necessary. Retargeting the high cost fund as now recommended will provide an additional interstate expense allocation for the small companies most in need of assistance and direct less assistance to the larger LECs, *i.e.*, carriers with over 200,000 access lines, that have more flexibility in dealing with above-average costs.¹⁴⁰ In light of this retargeting of assistance toward smaller companies, we can reasonably conclude that this new formula, while perhaps not perfect, represents an improvement over the existing high cost assistance formula.¹⁴¹

87. We also adopt the basic approach for recovering high cost funds proposed in the Unity 1-A agreement, with some modifications. First, as with funding for the federal lifeline assistance programs,¹⁴² IXC's that have at least 1) 1% of the total common lines presubscribed to interexchange carriers in all study areas, or 2) 5% of the presubscribed lines in any

140 The proposal will also decrease the full amount of the high cost assistance funding by an estimated \$58 million.

141 This new formula will become effective on September 1, 1988.

142 See supra para. 71.

study area and a minimum of 1000 presubscribed lines in that study area will be responsible for paying high cost assistance. A flat monthly charge assessed eligible IXC's to recover high cost funds will be calculated semi-annually based on all of the common lines presubscribed to these interexchange carriers.¹⁴³ The Unity 1-A proposal limits responsibility for providing high cost funds to only a few of the largest IXC's. We believe that our modification more fairly distributes the responsibility for high cost assistance funding among a greater number of the IXC's, and takes into account the fact that while on a nationwide basis an IXC may not have a substantial presence, it could be a dominant carrier in a particular area. Second, we do recommend that the IXC payments be calculated every six months rather than on a yearly basis as proposed in Unity 1-A. We believe that calculating these payments on a semi-annual basis is preferable to reflect possible changes in the market share of the different interexchange carriers due to competition in the interexchange market.¹⁴⁴

88. We do not recommend, as some commenters suggest, a change in the current eligibility requirement for high cost assistance. We find that the current eligibility requirement, based on the average loop costs of the study area, is a reliable criterion for determining which LEC's require high cost assistance. It also has proven to be administratively feasible to implement. Furthermore, we agree with NTCA that including additional evaluation criteria, such as local exchange rates, would require a subjective determination of the value of the local calling area size, the community of interest, short-haul toll rates and other similar factors. Eligibility criteria based on all of these factors would create a complex assistance mechanism that would be difficult to construct and implement.

89. Similarly, we conclude that requiring certification that a LEC has considered pricing options and other self-help alternatives before it could receive high cost assistance unnecessarily complicates the high cost assistance program. However, because we are concerned that these high cost measures do indeed remain properly targeted, we recommend that the Commission direct NECA to file annual reports that detail current NTS loop costs and high cost assistance for each study area, as well as trends in the growth of loop costs and the distribution of the high cost funds, to allow careful monitoring of the effects of the revised formula. As we

143 This funding mechanism for high cost assistance will become effective, along with our recommended pooling revisions, on April 1, 1989. Until that time, the high cost fund will continue to be recovered through the CCL rate.

144 Arkansas suggests that the assistance should be calculated on a quarterly basis. We do not perceive the need to require this administrative burden and believe that a semi-annual basis will be sufficient to make any necessary changes in the IXC's payments.

stated in the Recommended Decision, we strongly urge all of the state commissions to ensure that the benefits of the high cost assistance measures accrue to local ratepayers as intended (i.e., to keep local service rates lower than they otherwise would be).

90. Finally, we conclude that OPASTCO's proposal for additional high cost assistance for the small LECs, i.e., carriers with 50,000 or less access lines, should not be adopted. The OPASTCO proposal is designed to provide an additional allocation to the interstate jurisdiction to help small LECs recover increases in local revenue requirements due to recent changes in the separations procedures. We find that the Commission and the Joint Board have already considered the impact of the revenue requirement shifts resulting from these separations changes in recommending and adopting them. Therefore, we conclude that additional assistance does not appear to be appropriate at this time.¹⁴⁵

¹⁴⁵ We note that in a separate action today, we recommend measures for the allocation of Category 6, Central Office Equipment, costs that ensure a lengthy transition for the reallocation of a portion of these costs to the intrastate jurisdiction and that provide an additional interstate allocation of costs for LECs serving fewer than 50,000 access lines. Recommended Decision, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, FCC 87- (1987). Other separations changes, such as the movement to the 25% gross allocator and the removal of inside wire costs, which OPASTCO contends are shifting revenue requirements to the intrastate jurisdiction, are being phased-in over a transitional time period in order to avoid the rate effects that the OPASTCO plan apparently seeks to address.

VII. Common Line Tariff and Pooling

A. Pooling Proposals and Comments

91. The Further Notice requested comments and recommendations on possible modifications to the mandatory pooling of common line costs and revenues. It stated that these pooling issues should be considered in the context of possible modifications to SLCs and high cost assistance measures as part of an integrated proposal for further action. These general pooling issues had been raised in petitions filed by Bell Atlantic and New Jersey in late 1985.¹⁴⁶ The Further Notice directed us to consider these petitions as part of this broad proceeding because they raise issues relating to potential modification of the existing mandatory pooling mechanism.

1. Bell Atlantic and New Jersey Petitions

92. In its October 1985 petition, Bell Atlantic asserts that modifications to the current pooling arrangement are necessary. The Bell Atlantic plan would replace the current nationwide, uniform CCL charge developed through the CCL pooling process with three sets of charges. First, LECs would establish a "primary element," a charge set at a level sufficient to recover its own common line revenue requirement, but not to exceed the existing CCL rate.¹⁴⁷ Second, a transitional surcharge element would be developed based on the "excess costs" above the existing CCL "cap" that would be reported to NECA.¹⁴⁸ Third, a per minute high cost fund charge would be assessed. The primary element would be increased each year to the previous year's maximum rate (the primary element plus the transitional surcharge plus the high cost fund charge).

146 Bell Atlantic and New Jersey submitted separate petitions in October 1985 and November 1985, respectively, requesting changes in the Commission's Part 69 access charge rules to reduce the degree of, or eliminate, mandatory pooling of common line costs. These petitions and the comments filed in response thereto were referred to this Joint Board for consideration and development of recommendations. Petitions of Bell Atlantic and the New Jersey Board of Public Utilities, RM No. 5205, Memo No. 4622 (released May 21, 1986).

147 At the time the petition was filed, the CCL rate was a uniform 4.33 cents per minute.

148 At the time it filed its petition, Bell Atlantic estimated that a .5 cent per minute of use surcharge would be necessary with a \$2.00 SLC.

93. In its petition, New Jersey asserts that bypass is a major threat in its state and that depooling represents an effective tool to combat it. New Jersey endorsed three possible approaches to depooling: (1) the Bell Atlantic proposal; (2) total elimination of the NECA pool with a move toward cost-based pricing of services; or (3) a cap on the maximum contribution that any one state makes to the NECA pool, which would be phased down over time.

94. While most parties commenting in response to the Further Notice did not specifically address these two petitions, we will briefly summarize the comments submitted on them during the initial pleading cycle established in response to the petitions.¹⁴⁹ Among the BOCs, Ameritech, BellSouth, and US West supported the Bell Atlantic and New Jersey petitions, with US West proposing two transition plans for ending pooling, one involving increasing the SLC and the second involving a percentage phase-down in total pool contributions. Pacific Bell and Southwestern Bell opposed the petitions and instead supported the flat-rate IXC recovery of NTS costs, consistent with other petitions pending before the Commission at that time proposing alternative common line cost recovery rate structures.¹⁵⁰ NYNEX expressed concern that the Bell Atlantic plan would increase uneconomic bypass for those companies with near-average or greater-than-average costs. Bell Atlantic countered that these companies would only be paying slightly more under its plan than under the present system.

95. Among the independent telephone companies, the GTOCs proposed certain revisions to the Bell Atlantic plan. They suggested eliminating the

149 It appears that many of the views expressed in these comments have been superseded by subsequent comments submitted by the same parties in response to the Further Notice. In fact, Bell Atlantic itself subsequently filed comments in support of the pooling proposal contained in the Unity 1-A agreement. The District of Columbia, however, expressed continued support for the Bell Atlantic depooling plan, and Florida stated that careful consideration should be given to both petitions.

150 Pacific Bell submitted a waiver petition to implement such a plan at the same time that the Bell Atlantic and New Jersey petitions were filed. This petition subsequently was denied, as were similar petitions filed by a number of LECs. See Petitions for Waiver of Various Sections of Part 69 of the Commission's Rules, filed by Mountain States Telephone and Telegraph Company, et al. FCC 86-145 (released April 28, 1986) (Interim NTS Guidelines Order), on reconsideration, FCC 86-527 (released January 7, 1987) (Guidelines Order Reconsideration).

transitional surcharge and replacing it with a fixed charge upon IXCs. United also proposed some modifications to the Bell Atlantic plan, suggesting that the transitional surcharge level should decrease as SLCs are increased. Cincinnati Bell supported Bell Atlantic's petition, while SNET noted that a gradual reduction in pooling was necessary. Smaller LECs and independents maintained that further study of depooling was necessary, particularly concerning the impact of depooling on CCL rates and bypass. Among the LEC associations, NTCA strongly opposed the Bell Atlantic plan, while OPASTCO and USTA simply suggested referring the issue of depooling to the Joint Board.

96. Of the state commissions, Delaware, the District of Columbia, Maryland and Virginia all supported the Bell Atlantic and New Jersey depooling petitions. Other state commissions criticized the Bell Atlantic and New Jersey plans as being inadequately supported, and requested further review by the Joint Board. NTIA generally supported the depooling proposals, claiming that pooling is economically inefficient. Concerns that depooling will lead to interstate toll rate deaveraging are not well founded, NTIA argued, noting that access pricing variations have existed for a long time and rate deaveraging has not occurred.

2. Other Pooling Proposals

97. Two pooling proposals were filed in response to the Commission's Further Notice, one by the LEC industry associations and another by Vermont. The Vermont proposal was part of Vermont's comments in this proceeding.¹⁵¹ The LEC industry associations presented a detailed proposal for pooling modifications as part of the Unity 1-A agreement.

98. The pooling modifications proposed by the LEC industry associations call for the replacement of the present mandatory common line pooling system with arrangements that the agreement characterizes as a "voluntary" common line pool¹⁵² and a "mandatory" long term support (or LTS) fund¹⁵³ that will enable those remaining in the pool to charge IXCs

¹⁵¹ See supra note 99.

¹⁵² This voluntary pool concept would permit carriers to opt out of the nationwide NECA common line tariff and file their own CCL rates.

¹⁵³ NRTA, one of Unity 1-A's sponsors, added a number of clarifying footnotes to the Unity 1-A agreement that emphasized its view that the Unity 1-A common line pooling mechanism would not totally eliminate mandatory pooling. Rather, NRTA asserts, Unity 1-A would only streamline the present mechanism to provide for "minimum mandatory pooling."

the equivalent of what would have been the nationwide average CCL rate had the mandatory common line pool been maintained. In addition, Unity 1-A establishes a four-year transitional support (or TRS) fund, which would be used to provide transitional support payments to LECs that traditionally have been net receivers under the current system but are expected by Unity 1-A's sponsors to withdraw from the "voluntary" pool.

99. Under Unity 1-A, LECs are divided into three groups: large company contributors (LCCs) that traditionally have had net revenue flows into the common line pool and, therefore, would be likely to withdraw from the existing NECA pool and file their own CCL tariffs;¹⁵⁴ large company receivers (LCRs) that traditionally have had net receipts from the present pool but, according to Unity 1-A's sponsors, would be likely to withdraw from the pool and file their own CCL tariffs; and small company poolers (SCPs)¹⁵⁵ that would be likely to remain in the voluntary common line pool. All LECs would be allowed to elect in June 1987 to remove themselves from the pool.¹⁵⁶ According to the plan, those LECs that choose not to withdraw from the pool in 1987 may choose to withdraw from the pool in subsequent years, provided they notify NECA by June 30th of the year in which they choose to file their own common line tariffs. The agreement provides, however, that in order to be eligible for transitional support, LCRs must elect to withdraw from the NECA pool in 1987 and file their own common line tariffs with a January 1988 effective date. Furthermore, all LECs that withdraw from the pool must do so on a holding-company basis and remove all study areas from the pool.

¹⁵⁴ As administrator of the mandatory common line pool, NECA presently files a single common line tariff in which all LECs are required to concur. The revenues received under that tariff are used: (1) to compensate NECA for its administrative expenses; (2) to allocate high cost assistance to qualifying study areas; (3) to compensate average schedule companies in relation to use of their facilities in originating and terminating interstate telecommunications services; (4) to reimburse LECs settling on the basis of cost studies for the expenses related to providing interstate common line services; and (5) to provide an identical earned rate of return on the interstate common line investment of each exchange carrier.

¹⁵⁵ The same basic provisions that apply to the LCCs and LCRs would apply to any "small companies" wishing to leave the pool. However, the proposal assumes that these LECs would remain in the pool.

¹⁵⁶ Under the plan, LECs withdrawing from the pool would file their individual common line tariffs on October 1, 1987, to be effective January 1, 1988.

CCB

100. The Unity 1-A LTS fund is designed to support LECs remaining in the NECA pool, enabling them to charge a CCL rate at a level approximately equal to the nationwide average charge that would have existed had all LECs been required to remain in the existing common line pool.¹⁵⁷ All LECs that elect to withdraw from the pool will pay LTS.¹⁵⁸ NECA will calculate the annual LTS payments for the nonpooling LECs and bill them on a monthly basis.¹⁵⁹ Transitional support payments from the LCCs will assist the LCRs that withdraw from the pool. Unity 1-A proposes a four-year transition period, with the amount of TRS payments decreasing 20% each year until they are eliminated.¹⁶⁰ As envisioned by Unity 1-A, the post-transition common line pool members would include only those small LECs

157 NECA would be responsible for calculating the hypothetical CCL rate. The hypothetical CCL rate would be computed by dividing the revenue requirement for the carrier common line element by the annual access minutes of use for all interstate or international services that use local exchange switching facilities. This calculation would be based on the prior year historical data submitted by the participating LECs in the NECA common line tariff and data submitted by LECs that file their own common line tariffs.

158 However, during the transition period (between 1988 and 1992), only the LCCs will pay LTS, in addition to paying TRS.

159 As proposed, the yearly LTS is based on the difference between the projected revenues for the poolers (based on the hypothetical CCL rate) and the revenue requirements of the poolers. During the transition period, LCC payments will be based on the percentage contribution of that LEC in relation to the other LCCs' in 1987. After the transition period, payments will be based on the ratio of a LEC's access lines to the total access lines for all those LECs not participating in the pool.

160 Under the Unity 1-A proposal, LCRs that choose in June 1987 to withdraw from the NECA common line tariff would be provided TRS as follows: (1) 1988 -- 80% of their net receipts from the NECA pool in 1987, adjusted to reflect the \$4.00 SLC proposed by the plan (1987 adjusted frozen amount); (2) 1989 -- 60% of the 1987 adjusted frozen amount; (3) 1990 -- 40% of the 1987 adjusted frozen amount; (4) 1991 -- 20% of the 1987 adjusted frozen amount. TRS would be funded by LCCs withdrawing from the NECA tariff. For LCCs withdrawing from that tariff in 1987, TRS payments would be based on their 1987 pool contributions, adjusted to reflect the proposed \$4.00 SLC and revised CCL revenues. A LCC withdrawing from the pool after the initial election opportunity in 1987 would pay TRS based on the ratio of its total access lines to the total access lines of other LCCs paying TRS. See Joint Comments at 20-22.

that need the protection of risk sharing and other benefits of a pool managed by NECA.

101. The sponsors of Unity 1-A cite as the benefits of their proposal: (1) "price flexibility" for those who opt out of the pool, allowing them to be more responsive to competition and the needs of their own customers and to combat bypass by setting access rates closer to cost; (2) elimination of the current transfer of funds, estimated by Unity 1-A's sponsors to be approximately \$600 million, among customers served by large LECs; and (3) cost, risk, and resource sharing for those remaining in the pool. Unity 1-A's sponsors also claim that their plan serves the universal service objective by maintaining an NTS cost pool and establishing an LTS mechanism to support those "small" LECs that need the benefits of the pool.

102. Commenting LECs generally support Unity 1-A's pooling proposal because, they assert, it would eliminate unnecessary support flows among large companies, provide incentives for efficient operation, and allow them to price switched access closer to the actual cost of service in their regions.¹⁶¹ Supporters of the Unity 1-A proposal also claim that the present pooling system is an anachronism and that the subsidy mechanism inherent in that system creates a significant bypass threat. Ameritech, which traditionally has been a net contributor to the mandatory common line pool, claims that the present system requires uneconomic charges to Ameritech customers of approximately \$256 million in 1986. Two other net contributors, Bell Atlantic and SNET, contend that their customers pay \$300 million and \$25 million, respectively, to support telephone service in other states. Smaller LECs also support the Unity 1-A pooling structure. They view the Unity 1-A package as consistent with small LEC's needs and state that it is "the best framework in which to ensure universal service."¹⁶²

161 While generally supporting Unity 1-A, Southwestern Bell expresses concern that the mandatory long term support obligations that attach to LECs withdrawing from the NECA pool may create an artificial incentive to remain in the NECA pool for LECs with common line cost recovery requirements that are higher than the national average -- so-called "net recipients." According to Southwestern Bell, these LECs, which under Unity 1-A must pay LTS after the transition period ends, should not be required to make such payments if to do so would require them to charge a CCL rate above the NECA pool CCL rate. BellSouth states similar concerns.

162 See Letter from USTA Small Telephone Company Committee to Mark S. Fowler, Chairman, Federal Communications Commission (December 17, 1986); see also OPASTCO Comments at 2; Waitsfield-Fayston, et al. Comments at 7.

103. Among the LECs, only ALLTEL and CP National oppose pooling changes at this time, maintaining that price flexibility should be explored further within the present mandatory pooling requirement. CP National expresses concern that depooling will lead to toll rate deaveraging. ALLTEL and CP National also raise particular concerns with certain other aspects of the Unity 1-A pooling proposal, such as how the proposal will effect the membership, control, and expenses of NECA, and how the LTS fund will be administered. ALLTEL and CP National suggest that the Commission seek further comments on whether the Unity 1-A pooling proposal will actually achieve the perceived benefits.

104. ALLTEL and CP National also argue that, if the Unity 1-A proposal is adopted, withdrawal from the common line pool should be permitted on a study area basis, rather than required on a holding company basis.¹⁶³ NYNEX argues, in response, that if the decision to leave the pool is not made on a holding company basis, companies will leave their high cost, less-competitive study areas in the pool. As a result, NYNEX argues, the benefits of depooling would be lost because there would be only minimal reductions in intercompany funding transfers.

105. Responding to concerns that "deaveraging" CCL rates will result in interstate toll rate deaveraging,¹⁶⁴ a number of LECs submit

163. In an ex parte presentation, CONTEL also argued that withdrawal from the NECA tariff and pool should be permitted on a study area basis. See Letter from Lawrence P. Keller, Director, CONTEL Federal Regulatory Department, to William J. Tricarico, Secretary, Federal Communications Commission, filed December 29, 1986 (notice of ex parte presentation to members of Federal Joint Board staff).

164. At present, AT&T and many other IXCs charge geographically averaged (i.e., uniform nationwide) interstate toll rates. That is not to say, of course, that services provided between the same points by different IXCs, or pursuant to the various optional calling plans offered by an individual IXC, are charged at the same rate. Generally, however, MTS and MTS-like calls in the same mileage band are charged at the same rate throughout the country. Even though LEC traffic-sensitive switched access charges and IXC network operation costs may differ from area to area, these variances have not proven to be so great as to provide IXCs a sufficient economic rationale for deaveraging interstate rates.

The CCL rate, which LECs assess upon IXCs as one portion of the total charge for providing switched access service, does not currently differ among LECs because mandatory participation by all LECs in the NECA common line tariff and pool results in a uniform nationwide CCL rate. Due to varying common line cost recovery requirements among LECs, however, CCL rates would vary in the absence of pooling, particularly in rural and

that the threat of interstate toll rate deaveraging is insignificant under the Unity 1-A pooling proposal. NYNEX maintains that once the Unity 1-A plan is fully implemented, the LTS fund would allow smaller LECs in the pool to charge a CCL rate that would not exceed a non-pooler's effective CCL rate by more than \$.01 per minute of use, an amount that would minimize any rate disparities. Rochester argues that deaveraging pressures resulting from fairly small differences in CCL rates probably are overstated, noting that even though traffic-sensitive charges presently vary among LECs, AT&T has not deaveraged its interstate toll rates.

106. The IXC's submitted only minimal comments regarding proposed modifications to the present mandatory common line pool. AT&T did note that if the existing pooling mechanism is eliminated or substantially revised, and IXC's are charged CCL rates based upon the study-area-specific NTS costs of individual LECs, it may be forced to initiate tariff revisions reflecting geographically deaveraged interstate toll rates in response to rate deaveraging initiatives by its competitors in the interexchange market.

107. Some state commissions, including those in the District of Columbia, Illinois, Florida, and Pennsylvania, express support for the general concept of modifying the current mandatory pooling mechanism. Florida indicates that a mandatory pool may be necessary only to support a high cost fund. Pennsylvania suggests that all LECs should move toward billing and collecting their actual costs over a reasonable period of time. Other state commissions express concern that depooling would harm universal service and lead to interstate toll rate deaveraging, and question whether depooling would remove bypass incentives. Missouri requests further study of pooling alternatives, noting that it is not necessarily opposed to pooling changes but is concerned that uniform interstate toll rates continue.

108. As noted previously, Vermont advocates eliminating the current mandatory common line pooling system. Vermont asserts that this system is no longer related to any rational purpose and should be "dissolved with no more than a two year transition."¹⁶⁵ Vermont proposes to replace

certain other areas of the country, where LEC common line cost recovery requirements tend to be significantly higher than the national average. Several commenters expressed concern that in an environment in which LECs tariffed CCL rates reflect dramatically different common line costs, IXC's might deaverage their interstate toll rates, forcing subscribers in rural and other high cost areas to shoulder an inordinately high common line cost recovery burden.

165 Vermont Comments at 1-2.

the present arrangement with a restructured high cost fund that would be used to provide financial assistance to high cost LECs in rural areas and to encourage such LECs to modernize their facilities.¹⁶⁶ To qualify for support a LEC would have to have a composite index over 115% of a national average index comprised of three equally weighted factors: (1) density; (2) NTS costs; and (3) basic local service rates.¹⁶⁷ According to Vermont, its high cost fund would be "supported by [a] mandatory carrier common line pool contributed to by all carriers and distributed to qualifying companies."¹⁶⁸

109. Vermont claims that elimination of the existing pooling system would not necessarily result in interstate toll rate deaveraging. For such deaveraging to occur, Vermont states, two factors must exist. First, access charges must reflect higher than average costs. Second, "a decision must be made that costs assigned to or collected from access charges would not be removed and placed in basic rates to reduce access charges."¹⁶⁹ Vermont implies its restructured high cost fund would adequately address the results of the first factor. In addition, a fundamental assumption underlying the Vermont plan appears to be that LECs would be permitted to "choose" to shift to the intrastate jurisdiction costs currently recovered through interstate access charges, and to recover such costs through basic local exchange rates.¹⁷⁰

110. State consumer counsels, consumer groups, and user groups had no comments specifically directed to pooling issues. Among government agencies, both DOJ and NTIA support pooling modifications, with NTIA specifically endorsing the Unity 1-A pooling proposal. DOJ and NTIA assert that pooling eliminates incentives for efficient operations. NTIA also

¹⁶⁶ Vermont did not propose a blueprint for the transition from the existing pool arrangement to Vermont's restructured high cost fund.

¹⁶⁷ The proposal also calls for "mandatory" contributions to support various policies that have been recommended by this Joint Board and adopted by the Commission, such as the scheduled transition to a 25 percent basic interstate allocation factor for the jurisdictional separations of NTS costs.

¹⁶⁸ Vermont Comments at 5.

¹⁶⁹ Id. at 11.

¹⁷⁰ See id. at 11-12. Vermont also argues that interstate toll rates already are deaveraged on a de facto basis for a variety of reasons, including the lack of equal access in certain areas. Id. at 13.

maintains that mandatory pooling is becoming increasingly difficult to reconcile with the development of competition in the industry.

B. Discussion

111. As explained more fully below, we conclude that continuation of the present mandatory nationwide pooling of common line costs and revenues is not necessary to attain the public interest benefits the Commission sought to achieve in prescribing that arrangement. We also conclude that increasing federal subscriber line charges, as we are recommending, will create an opportunity to replace the existing system with a less restrictive arrangement, one that will give LECs withdrawing from the pool increased incentives for efficiency while preserving the benefits that pooling provides to rural subscribers and others served by high cost LECs. Of the available alternatives, we find that the Unity 1-A pooling framework, as altered and clarified below, satisfies public interest requirements. Therefore, we recommend that the Commission adopt and implement our proposed pooling modifications.

1. Background

112. From the mid-1940's until the advent of access charges, most LECs recovered the bulk of their interstate revenue requirement through a "pooling" process administered by AT&T known as settlements and division of revenues. This process sometimes was referred to as a "partnership" because it permitted LECs to achieve a uniform rate of return on their investment.¹⁷¹ It also helped AT&T maintain a nationwide average toll rate

171 The process was the product of intra-corporate agreements within the Bell System and inter-carrier agreements between AT&T and independent LECs. The process entailed the operation of a formula that enabled each LEC to recover its expenses associated with the provision of AT&T's major interstate services, primarily MTS and WATS, plus a return based upon each LEC's percentage share of total investment associated with these services. Monies were transferred monthly to reflect the difference between the "partnership" charges collected by each LEC and its share of total LEC revenues. The transfer process among Bell System Companies was called "division of revenues." The transfer process between AT&T and independent LECs was called "settlements." We refer to these processes in the singular because they were designed to operate as a single system that produced the same result for all participating companies. See MTS and WATS Market Structure, Second Supplemental Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 224, 226-231 (1980)(Second Supplemental Notice).

113 schedule.

113. In its proceeding examining the proper market structure for the offering of MTS and WATS services, the Commission determined that the "partnership" process, as it was then structured, was inappropriate for the competitive environment being fostered in interstate services. Accordingly, the Commission proposed to eliminate the settlements and division of revenues arrangement and replace it with the access charge plan, pursuant to which the interstate cost assignment for LEC plant used in the origination and termination of interstate calls would be recovered by tariffed charges.¹⁷²

114. When the Commission outlined its present access cost recovery framework -- in which switched access costs are recovered through SLCs paid by end users and a collection of other rate elements assessed upon IXCs, including a CCL element designed to recover MTS costs and traffic-sensitive elements designed to recover costs of such LEC services as end office switching and local transport -- the Commission determined that it was not appropriate to compel LEC participation in common tariff and pooling arrangements for each of these rate elements.¹⁷³ In reaching this decision, the Commission observed that such arrangements would be detrimental in certain respects because they would limit LEC flexibility to achieve many of the primary objectives of the access charge plan, namely, efficient use of local networks, preservation of universal service, and prevention of uneconomic bypass.¹⁷⁴ Moreover, the Commission noted, many LECs did not want to participate in such arrangements because they would result in cost/price distortions and would reduce cost containment incentives.¹⁷⁵

115. Despite these concerns, the Commission concluded that a common tariff and pooling arrangement covering the CCL rate element was necessary at that time because LEC-specific CCL rates might generate

¹⁷² See *id.* at 232-237. The adoption of a system of tariffed charges for the recovery of LEC interstate costs ultimately became a mandated component of the court-ordered divestiture by AT&T of its wholly-owned LECs, the Bell Operating Companies. See *United States v. AT&T*, 552 F.Supp. 131 (D.D.C. 1982) (Modification of Final Judgment, MFJ), *aff'd sub nom.* *Maryland v. United States*, 460 U.S. 1001 (1983).

¹⁷³ See *Access Charge Order*, *supra* note 4, at 326-330.

¹⁷⁴ *Id.* at 281.

¹⁷⁵ *Id.*

significant pressures upon IXC's to deaverage interstate toll rates. The Commission identified a number of reasons why a common tariff and pooling arrangement would reduce deaveraging pressures. Foremost among them was the ability of such an arrangement to level out otherwise substantial CCL rate disparities that would result from the varying cost recovery needs of LECs with high and low Subscriber Plant Factors (or SPF),¹⁷⁶ high and low cost LECs, and LECs with different embedded inside wire and CPE costs.¹⁷⁷ The Commission also determined that a common tariff and pooling arrangement would reduce the administrative difficulty of calculating premium/non-premium access charge differentials that were intended to off-set the lack of equal access for all IXC's to LEC facilities.¹⁷⁸ The

176 The Subscriber Plant Factor is a basis for apportioning between state and interstate jurisdictions the cost of each LEC's subscriber loop plant used for switched services. 47 C.F.R. § 67.2(b)(3)(iv). The use of this factor for jurisdictional separations was recommended by the CC Docket No. 18866 Joint Board and adopted by the Commission in 1970. See Separations Procedures, 26 FCC 2d 248 (1970). Acting upon the recommendation of the CC Docket No. 80-286 Joint Board, the Commission in 1981 froze each LEC's SPF and subsequently established a transition schedule that ultimately will result in each LEC using 25 percent as a basic interstate allocation factor for purposes of the jurisdictional separation of NTS costs. See Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, Recommended Decision and Order, CC Docket No. 80-286, FCC 81-565, released December 14, 1981, adopted by Commission 89 FCC 2d 1 (1982)(frozen SPF), aff'd sub nom. MCI Telecommunications Corp. v. FCC, 750 F.2d 135 (1984); Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, Second Recommended Decision and Order, 48 Fed. Reg. 46,556 (1983), adopted by Commission, 96 FCC 2d 781 (1984)(transition to 25 percent interstate allocation factor).

177 The access charge plan provided that the CCL charge would be the vehicle for recovering LEC inside wire and embedded CPE costs, which were being removed from LEC rate bases according to transitional phase-down schedules. See Access Charge Order, supra note 4, at 283-284; see also infra note 181.

178 At the time the access charge plan was adopted, premium access charges were designed to reflect the "opportunity cost" of preferred access arrangements. Access Charge Order, 93 FCC 2d at 286-287. A compulsory common line tariff and pool, the Commission noted, made it possible to compute this "opportunity cost" on a nationwide, lump sum basis, rather than on the basis of study areas, where differences in the quality of interconnection varied widely from place-to-place and from month-to-month. Id. at 329.

Commission concluded that common tariff and pooling arrangements were unnecessary for traffic-sensitive switched access charges because the design of these rate elements and the separations methods for apportionment of traffic-sensitive costs were unlikely to result in LEC rates that varied so widely as to cause interstate toll rate deaveraging.

116. The establishment of a mandatory tariff and pooling arrangement necessitated that some entity be created to replace AT&T in the role of preparing the tariff and administering the pool on behalf of all participating LECs. Therefore, the Commission established NECA. The Commission also observed that the creation of NECA was necessary to make the access charge plan work because most LECs had never filed any kind of interstate tariff and many were not prepared to do so. Even if the more than 1400 LECs in this category could file interstate access tariffs, the Commission observed, it would be unable to review them in a meaningful fashion.¹⁷⁹

2. Analysis & Recommendations

117. The initial decision to compel all LECs to participate in a common tariff and pooling arrangement regarding the CCL rate element was driven in large part by concerns that LEC-specific CCL charges might result in deaveraged interstate toll rates. Although the Commission prescribed mandatory pooling as a means of resolving these concerns, it recognized that the effects of pooling are not entirely beneficial. As noted in the access charge proceeding, for example, pooling limits LEC cost recovery flexibility, establishes economically inefficient cost/price distortions, and reduces LEC incentives to contain costs. Moreover, as noted by commenters in this proceeding, pooling may exacerbate uneconomic bypass incentives in low cost areas. In evaluating the pooling proposals presented to this Joint Board, therefore, we must determine whether the benefits obtained through the current system still outweigh the costs imposed by that system.

118. It is clear that the specific pressures that prompted concerns that LEC-specific CCL rates might result in sharply deaveraged interstate toll rates will be significantly diminished in the near future for a number of reasons. First, cost recovery disparities between LECs with high and low SPFs are being reduced by the Commission's decision to adopt our recommendation to move toward a 25% basic interstate allocation factor for purposes of the jurisdictional separations of NTS costs.¹⁸⁰ Second,

¹⁷⁹ Id. at 332-333.

¹⁸⁰ See Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Second Recommended Decision and

the transition schedule for the removal of embedded CPE from LEC rate bases is largely completed, and the scheduled removal of inside wire is well underway.¹⁸¹ Third, in light of subsequent changes in the method of calculating the premium/non-premium access charge differential, the concerns expressed about the difficulties of calculating the "opportunity cost" of premium access arrangements never materialized.¹⁸²

Order, 48 Fed. Reg. 46,556 (1983), adopted by Commission, 96 FCC 2d 781 (1984).

181 In accordance with the Commission's rules and orders, LECs have been phasing out their embedded CPE investment (Accounts 134 and 231) and related expenses, frozen as of December 31, 1982, by 1/60 each month until such investment and expenses are reduced to zero. See Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Decision and Order, 89 FCC 2d 1, modified, 90 FCC 2d 52 (1982). This schedule will be completed at the end of 1987. See 1986 Annual Access Tariff Order, Mimeo No. 1251, released December 24, 1986, at para. 25 (1986 Annual Access Tariff Order); 47 C.F.R. § 67.153. The amortization of embedded inside wire was ordered by the Commission in 1981. See Amendment of Part 31, 85 FCC 2d 818, 828-829 (1981). A staff analysis of 1985 data submitted to the Commission by all LECs with annual operating revenues in excess of \$1 million shows that, as of the end of 1986, scheduled amortization is approximately 60 percent completed. See Annual Reports Form M, filed December 31, 1985, at Schedule 14A (depreciation reserves). Based upon an analysis of similar LEC data submitted to the Commission in 1986, we estimate that the amortization of embedded inside wire will be more than 90 percent completed by the end of 1989.

182 As noted previously, supra note 178, the Commission concluded in the Access Charge Order that AT&T should be assessed a charge reflecting the "opportunity cost" of the premium access it received from LECs. Upon reconsideration of the Access Charge Order, the Commission concluded that a more reasonable and accurate measure of the "opportunity cost" or value of premium access would be achieved by providing IXCs receiving non-premium access a discount of 55 percent applied to the CCL rate. See MTS and WATS Market Structure, on reconsideration, 97 FCC 2d 682, 723-735 (1983). Finally, after determining that an opportunity cost analysis was sound in concept but imprecise in operation, the Commission established a total differential for all relevant access elements based on the total differential produced by the Exchange Network Facilities for Interstate Access (ENFIA) tariffs then in effect. See MTS and WATS Market Structure, on further reconsideration, 97 FCC 2d 834, 852-863 (1984), aff'd in principal part and remanded in part on other grounds, Nat'l Ass'n of Regulatory Comm'rs v. F.C.C., 737 F.2d 1095 (D.C. Cir. 1984), cert. denied, 105 S. Ct. 1224, 1225 (1985).

119. A fourth, and very important, factor that should diminish pressures to deaverage interstate toll rates is that the total amount of common line NTS costs to be recovered through usage-based CCL rates will be reduced if the Commission adopts our recommendation to increase the ceiling on interstate subscriber line charges.¹⁸³ This reduction is important because the aggregate CCL revenue requirement, as manifest in the industry-wide CCL rate, reflects the degree of potential CCL rate disparities that could occur in the absence of pooling. In 1984, for example, the year in which the CCL rate first became effective, the industry-wide rate was quite high -- \$.0524 per minute of use.¹⁸⁴ Upon implementation of the \$3.50 subscriber line charge in 1989, however, the average CCL rate (originating and terminating) is likely to be significantly lower than the 1984 rate -- approximately \$.02 per minute of use.¹⁸⁵ Therefore, although approximately 50 percent of the total interstate allocation of local exchange fixed costs will continue to be recovered from IXCs even after our recommendations are implemented, the effects of CCL revenue requirement reductions, combined with the effects of the actions discussed in the preceding paragraph that are steadily mitigating cost-recovery disparities among LECs, make it appear unlikely that LEC-specific CCL rates would generate, on an industry basis, significant pressures to deaverage interstate toll rates.

120. Against this background, we find that the Commission prescription supporting the present common line tariff and pooling arrangement is broader than is required to achieve the public interest benefits the Commission intended to secure by that prescription. Moreover,

183 Recovering the costs of lifeline and high cost assistance programs through flat-rate charges assessed on IXCs, as we recommend supra, also will slightly reduce the CCL revenue requirement.

184 See NECA Tariff F.C.C. No. 1, effective May 24, 1984; see also Investigation of Access and Divestiture Related Tariffs, CC Docket No. 78-72, Phase I, CC Docket No. 83-1145, Phase I, FCC 84-201, released May 15, 1984, at para. 79.

185 See NECA Pooling Data Request, Attachment C III, Column C, filed September 2, 1986 (1989 industry-wide CCL rate estimated to be \$.0167 per minute of use). We are using an estimate of \$.02 for the 1989 CCL rate, as opposed to the NECA estimate of \$.0167, because NECA's estimate is based on a \$4.00 subscriber line charge and has not been adjusted to account for, inter alia, growth or the stimulative effects of overall revenue requirement reductions.

we conclude that it is not in the public interest to continue that arrangement as currently structured, and that to do so would present an unnecessary impediment to the attainment of certain fundamental principles of the access charge plan, particularly the promotion of incentives to contain costs and the elimination of economically inefficient cost/price distortions.

121. Our conclusion that the existing arrangement is more comprehensive than necessary does not mean that it is unnecessary to continue some form of common tariff and pooling arrangement in the future. To the contrary, depooling, particularly precipitous depooling, could adversely affect the telecommunications marketplace and cause hardship in many areas of the country for ratepayers and LECs alike. For example, even with the actions taken by this Joint Board and the Commission in recent years to reduce cost-recovery differentials among LECs, NTS loop costs will continue to vary, often significantly, from study-area-to-study-area and from state-to-state.¹⁸⁶ Absent some form of pooling and a long term support arrangement among all LECs, these variations might impose inordinately high NTS cost recovery burdens on rural and other high cost subscribers. Unlimited depooling might also present a barrier to entry into the interstate toll market by curtailing the incentives and the ability of new entrants to establish ubiquitous, nationwide networks. Depooling certainly would eliminate the many significant benefits small LECs enjoy under the current system, including substantially reduced risks and a steady interstate return on investment.¹⁸⁷ Finally, immediate depooling would create significant administrative difficulties for the hundreds of LECs that have never before filed interstate tariffs, and for the Commission, which would have to review them. Therefore, we do not recommend that the existing, compulsory common tariff and pooling arrangement be rescinded in toto. We recommend instead that the current arrangement be replaced with one of a more flexible nature that preserves the public interest benefits of the current arrangement and limits the Commission prescription to the achievement of those benefits.

186 See NECA Submission of Current View of 1984 Universal Service Fund Data, State Summary of Unseparated Revenue Requirement Per Loop, CC Docket No. 80-286, filed September 2, 1986, at Tab 3. According to this data, for example, average unseparated revenue requirement per loop in Massachusetts is \$139.62, while in Arkansas the average unseparated revenue requirement is \$303.65.

187 See Regulation of Small Telephone Companies, Notice of Proposed Rulemaking, CC Docket No. 86-467, FCC 86-537 (released December 12, 1986) (Small Carrier Regulation Order).

122. None of the various proposals submitted for our consideration is completely in harmony with our recommendation. We cannot support the Bell Atlantic and New Jersey proposals because they contemplate, essentially, an end to all pooling in the near future. Although the supporters of these proposals are correct that an end to pooling would reduce uneconomic bypass incentives in certain areas of the country and increase economic efficiency, the elimination of pooling could have adverse consequences for ratepayers in rural and other high cost areas.

123. For several reasons, we also decline to recommend adoption of the pooling modifications proposed by Vermont. First, although Vermont proposes to replace the current pooling arrangement with a restructured high cost fund, Vermont has not provided sufficient detail about the nature or operation of the restructured high cost fund to permit us to conclude that it would be a reasonable replacement for the current arrangement. Second, and more importantly, it appears that a primary component of the plan's method of preserving what we have identified as a major benefit of the current pooling arrangement -- avoiding a situation in which inordinately high interstate NTS cost recovery burdens are placed on rural and other high cost subscribers -- is to grant LECs the flexibility to shift costs between interstate and intrastate jurisdictions, with accompanying adjustments to interstate access and basic local service rates.¹⁸⁸ The provision of such flexibility would require fundamental change in the current jurisdictional separations process, a change that we do not believe is warranted and that clearly is beyond the scope of the instant proceeding.

124. The Unity 1-A proposal also suffers from several infirmities, but these relate more to the details of the proposal than to its design. The fundamental framework of the proposal -- the phase-out of regional fund transfers among LECs due to pooling, the establishment of LTS funding for LECs remaining in the NECA CCL pool, and the opportunity to provide LECs with NTS cost recovery flexibility -- is sound.

125. A major benefit of the limited pooling arrangement proposed in Unity 1-A is the establishment of increased incentives for LECs withdrawing from the NECA tariff to reduce costs and improve the efficiency of their operations. Under the current pooling arrangement, the benefits of a single LEC's efforts to reduce costs or increase efficiency are shared with all other LECs in the pool. Reducing the degree of mandatory pooling participation, on the other hand, creates incentives to introduce efficiencies and cost-cutting measures because non-pooling LECs taking such actions will be able to benefit from them directly, through corresponding reductions in their CCL charges. Limited pooling will also eliminate

188 See Vermont Comments at 11-12.

compulsory risk sharing among the LECs that withdraw from the NECA tariff, as well as the approximately \$600 million support transfer among the the largest LECs due to pooling. Most of the LECs that Unity 1-A represents will withdraw from the NECA tariff and pool in 1988 have more than 300,000 access lines and \$150 million in annual operating revenues.¹⁸⁹ No evidence has been presented in this proceeding, nor are we aware of any, that would provide a basis for concluding that LECs of this size face risks sufficiently large that the public interest requires them to participate in risk sharing (i.e., pooling) arrangements. Moreover, as noted previously, the combination of actions already taken by the Commission at our request, and those recommended herein, substantially reduce the need to continue pooling support transfers among these LECs.

126. By establishing an intra-industry support mechanism enabling LECs remaining in the CCL pool to charge a CCL rate no higher than the rate that would prevail if mandatory pooling of all CCL costs were maintained, the proposed Unity 1-A framework also addresses concerns about the potentially adverse impacts of pooling modifications on rural and other subscribers served by high cost LECs. The adoption of this aspect of Unity 1-A is important because it will ensure that the benefits attained by permitting certain LECs to withdraw from the existing pooling arrangement will not be outweighed by the potentially negative affects of such withdrawals on ratepayers throughout the country, and particularly those ratepayers served by LECs that continue to participate in the NECA CCL tariff.¹⁹⁰

127. In addition to ensuring that rural and other high cost subscribers are shielded from inordinately high NTS cost recovery burdens, the Unity 1-A long term support mechanism should prove to be an effective bulwark against pressures to deaverage interstate toll rates. We note, for example, that the estimated 1993 CCL charge of LECs remaining in the common line pool could be approximately \$.01 per minute of use and, therefore, could not exceed the lowest possible non-pooled LEC CCL charge by more than that amount.¹⁹¹ This potential 1993 rate disparity is less than existing disparities among the LECs' traffic-sensitive charges, which have not produced interstate toll rate deaveraging.¹⁹² Moreover, it is unlikely

189 See infra note 197.

190 See supra para. 121.

191 NECA Pooling Data Request, Attachment C III, Comparative Data Analysis, Company Specific State by State Results, Year 1993, filed September 2, 1986, at Column C.

192 For example, in October of 1986, the combined traffic-sensitive

that significant pressure to deaverage interstate toll rates will result from potential differences between the pooled NECA CCL rate and non-pooled CCL rates higher than the NECA rate. This is so for several reasons. First, smaller LECs with cost recovery requirements sufficient to produce very high CCL rates have little incentive, for that very reason, to withdraw from the NECA common line tariff and pooling arrangement. Second, a non-pooling holding company with a mixture of high and low cost study areas would be able to lower extreme CCL rate "peaks" among these areas by tariffing a single, averaged CCL rate covering some or all these areas, as permitted by the Commission's Rules.¹⁹³

128. Although the framework of the Unity 1-A pooling proposal is sound, we believe, as noted above, that it should be modified in certain respects. Before discussing our own recommendations in this regard, we first discuss several modifications suggested by parties commenting on the proposal.

129. The first suggestion raised by commenters is that upon completion of the transitional support payment schedule, LECs that have been receiving transitional support be excused from long term support obligations if payment of long term support requires them to charge a CCL rate higher than the NECA CCL rate. In our view, adopting this proposal would establish an incentive for non-pooling LECs, particularly those with CCL rates near the NECA rate, to increase their costs in an effort to qualify for relief from LTR payments. We have been provided no sound reason to establish such an incentive, which runs counter to our goal of increasing LECs' cost containment incentives through pooling modifications. Therefore, we reject this suggestion.

130. The second suggestion raised by commenters is that LECs be permitted to evaluate on a study-area-by-study-area basis whether to participate in the modified NECA pooling arrangement we are proposing. We reject this suggestion because it quite likely would cause LECs to withdraw only their low cost study areas from the pool. This would result in mere

switched charges assessed upon IXCs per minute of use by Pacific Bell totaled \$.0353, while those of New Jersey Bell totaled \$.0191. These are traffic-sensitive premium switched access rates, excluding the CCL charge, calculated per minute of use on the basis of a ten mile transport. See Pacific Bell Tariff Review Plan, Switched Access Rate Analysis, Vol. 1, Section 5, filed October 3, 1986, at p.2, line 120; Bell Atlantic Tariff Review Plan, Switched Access Rate Analysis, Vol. 2, Section 5, filed October 3, 1986, at line 120 (New Jersey Bell).

193 See 47 C.F.R. § 69.3(e)(7).

administrative changes in the current pooling arrangement, rather than the fundamental reforms that we hope to achieve through our proposed structural modifications, because the long term support obligations of non-pooling low cost LECs would likely equal the contributions they would make if they remained in the pool. Permitting withdrawal from the pool on a study area basis also might establish improper incentives relating to the allocation of common costs between study areas remaining in the pool and those that are withdrawn. Therefore, we recommend that the Commission adopt a requirement that withdrawal from the pool be on an "all or nothing" basis. Specifically, a LEC withdrawing one of its study areas must withdraw all of them, and a regional holding company withdrawing one of its LECs must withdraw them all.¹⁹⁴

131. We turn now to our further recommendations for improving the Unity 1-A pooling proposal. Our primary concern relates to the proposed Unity 1-A schedule for LEC withdrawal from the existing NECA tariff and pooling arrangement. As noted previously, this proposed schedule would require LECs to announce on June 1, 1987, their intention to file their own CCL tariffs on October 1, 1987, as part of the Commission's annual access tariff revision process. These tariffs would have a scheduled effective date of January 1, 1988, the date on which Unity 1-A contemplates that the ceiling on federal subscriber line charge cap would be raised to \$4.00. Although LECs would be permitted to withdraw each year thereafter, the Unity 1-A proposal makes TRS payments available only to LECs withdrawing the first year.

194 Following the close of the comment period, representatives of NRTA and USTA (hereafter industry representatives) presented to members of the Federal Joint Board Staff a proposed amendment to Unity 1-A concerning the impact of mergers and acquisitions on the pooling status of individual LECs. See Notice of Ex Parte Meeting between federal Joint Board staff and Counsel to NTRA and USTA, MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72 and 80-286, filed January 14, 1987. Essentially, the proposed amendment would permit a non-pooling LEC that acquires a LEC remaining in the pool to determine whether the acquired LEC would continue to participate in the NECA CCL tariff and pool. According to the industry representatives, the primary purpose of the proposal is to maintain the marketability of small LECs. Although we are recommending that the Commission take several steps to ensure that the impact of our proposed pooling modifications does not adversely affect small LECs, the record in this proceeding is not sufficiently detailed to permit us to recommend the adoption of this proposal, which no party has had an opportunity to comment on. Rather, we recommend that the proposal be examined and resolved in a separate proceeding initiated by the Commission.

132. The proposed Unity 1-A schedule raises several problems. First, the January 1, 1988 date proposed in Unity 1-A for implementing pooling modifications was established to coincide with implementation of Unity 1-A's proposed increase in subscriber line charges to \$4.00. Although there is no persuasive evidence that a LEC's considerations about withdrawing from the pool would be substantially altered due to the difference between the \$4.00 ceiling proposed in Unity 1-A and our own recommendation that subscriber line charges ultimately be raised to \$3.50, our proposed schedule regarding increases will provide for only \$2.60 of subscriber line charge recovery as of January 1, 1988. This level of subscriber line charge recovery is not high enough to permit many LECs to withdraw from the NECA tariff and pooling arrangement, including some of the largest LECs.¹⁹⁵ Because the goals we seek to achieve through our proposed pooling modifications hinge upon the withdrawal of the largest companies from the NECA tariff,¹⁹⁶ we recommend that such modifications be implemented on April 1, 1989, the date we have proposed an increase in the ceiling on subscriber line charges to \$3.50.

133. The second problem with the proposed Unity 1-A schedule is the establishment of a single opportunity for LECs to announcing an intention to withdraw and qualify to receive transitional support payments. This may well place a significant and unreasonable burden upon all but the largest companies.¹⁹⁷ Smaller companies that might wish to leave the pool

195 Among other reasons, a \$2.60 subscriber line charge would require certain LECs outside the NECA pool, particularly high cost LECs, to tariff a CCL rate so high as to significantly exacerbate uneconomic bypass incentives in their study areas, as well as threaten continued averaging of interstate toll rates.

196 See supra para. 125. In making our recommendations regarding pooling modifications, we are relying upon the representations made by Unity 1-A's sponsors that the largest companies will withdraw from the NECA Common Line tariff and pool. If the benefits we seek to obtain through pooling modifications are substantively compromised as a result of companies not acting as they have represented, we recommend that our proposals be revisited.

197 Most of the LECs that Unity 1-A indicates will withdraw from the NECA pool are operating companies within holding companies that own or control more than 300,000 access lines and in excess of \$150 million in annual operating revenues. Compare Joint Comments at n. 19 with United States Telephone Association, Telephone Statistics for the Year 1985, vol. 1, July 1986, at 8 (access lines and annual operating revenues of 100 largest companies). For purposes of our discussions of pooling modifications, we

do not enjoy the substantial staff and related resources of the largest companies, and likely will need more time to evaluate the implications for themselves and their customers of withdrawing from the NECA tariff, as well as to assemble and prepare the information necessary to file their own tariffs with the Commission. For these reasons, we recommend that smaller companies be given an additional opportunity, in 1989 as well as in 1988, to announce their intention to withdraw while still qualifying for transitional support.¹⁹⁸ ...

134. Implementing our proposed pooling modifications in this two-stage process, beginning April 1, 1989, is also designed to alleviate the potentially significant administrative burdens such implementation could place on the Commission.¹⁹⁹ If receipt of transitional support is contingent upon withdrawing from the pool on one particular date, as proposed in Unity 1-A, all net recipient LECs that seek to withdraw from the pool will be encouraged to file their own CCL tariffs at the same time. We have concluded that a two-stage process for these carriers will significantly ease the administrative burden, with few adverse consequences.

135. Even if the first filing of common line tariff revisions relating to pooling modifications involves only the largest LECs, the Commission may have to review as many as 40 such tariffs, and potentially many more, as a matter of first impression.²⁰⁰ Performing this review in a meaningful manner would be difficult under any circumstances. It would be especially difficult if it were conducted in conjunction with the Commission's scheduled annual review of access tariff revisions,²⁰¹ as

will refer to LECs meeting these criteria as the largest companies and to all other LECs as smaller companies.

198 We also recommend that smaller LECs announcing in 1989 their intention to withdraw from the NECA tariff be provided with four years of transitional support, commencing in 1990.

199 It is unlikely that our proposed pooling modifications will have any significant impact on state commissions, although a limited number of changes may be required in states in which the present intrastate CCL rate is tied to the NECA CCL rate.

200 The Commission will have to review 40 separate CCL rates if all LECs that Unity 1-A's sponsors predict will withdraw from the NECA tariff, see supra note 196, thereafter file their own CCL tariffs at the study area level.

201 This review is conducted each year during the period from October 1 through December 31. See 47 C.F.R. § 69.3(a).

proposed in Unity 1-A. Finally, the establishment of an April 1, 1989, effective date for implementation of pooling modifications permits us to recommend that the date on which LECs will have their first opportunity to announce their intention to withdraw from the NECA tariff occur during August 1988. In 1989 and thereafter, we recommend that June be established as the month in which NECA must be notified of a LEC's intention to withdraw.²⁰²

VIII. Monitoring Program

136. Several significant steps are taken in this Order in the areas of NTS cost recovery and subscriber line charges, high cost assistance, lifeline assistance, and pooling of common line costs. While we view the proposals presented in this Order as final recommendations, we also recognize our continuing responsibility to monitor the impact of our recommendations in the increasingly dynamic telecommunications environment. Therefore, we are recommending that the Commission establish a comprehensive monitoring program by this Joint Board and the Commission to track the impact of this Recommended Decision and Order and Commission action on it.

137. We recommend that the Commission direct this Joint Board to issue in the near future a more complete order delineating the framework of, and schedule for, this monitoring program.²⁰³ Generally, we recommend that this program include collection of data on the impact of subscriber line charges. The Census Bureau's data on subscribership levels presently collected through the Current Population Survey should be enhanced with data designed to examine the effects of subscriber line charges on specific population segments. The effectiveness of lifeline plans, both the existing

202 If the Commission adopts our recommendations relating to pooling revisions, adjustments will be necessary to the current Part 69 rules governing the administration of NECA and the operations of the Common Line pool. Since the pooling modifications we are recommending will not become effective until April 1989, these adjustments need not be made immediately. We note that the Commission already is considering various issues relating to NECA's activities and administration. See Amendment and Clarification of Part 69 Rules Governing the National Exchange Carrier Association, Memorandum Opinion and Order and Notice of Proposed Rulemaking, CC Docket No 87-2, FCC 87-19, released Jan. 16, 1987.

203 The Joint Board Recommended Decision and Order on the monitoring program should be released by May 10, 1987 in order to be in effect on June 1, 1987.

subscriber line charge waiver measures and the proposed new service commencement charge assistance measures, also should be analyzed. Additionally, reliable data on growth of network usage should also be included in the monitoring program, as well as information and data on the development of uneconomic bypass affecting the public switched network. Monitoring the results of the retargeted high cost assistance mechanism recommended in this Order also will help ascertain whether the support provided through this program is providing effective assistance to customers in rural and other high cost areas. Revisions to the pooling of CCL costs and revenues, to be effective on April 1, 1989, will necessitate the monitoring of those LECs that withdraw from the NECA pooling and tariff process, the dimensions of the LTS and TRS payments between the LECs, the CCL revenue requirements for the LECs that remain in the NECA pool, and the economic pressures for IXCs to deaverage interstate toll rates. Finally, monitoring the rates and revenues for basic local services, or other state services and interstate toll should also be included.

138. In order to ensure that the monitoring program takes into account all relevant factors, we further recommend that an open record be maintained in this docket to allow for the filing of comments at any time regarding the structure and effectiveness of the program. Finally, we recommend that a series of reports based upon the data collected through the program be submitted to Congress and state regulators. These reports would be prepared on a quarterly basis. In addition to these reports, the members of the Joint Board and the Commission would conduct a 90-day study and review of the impact of subscriber line charges prior to the two final increases in these charges in 1988 and 1989. Finally, we recommend that the Commission submit the results of these reviews to Congress and state regulators.

139. The recommendations contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

IX. Ordering Clause

140. ACCORDINGLY, the Joint Board RECOMMENDS that the Commission adopt the proposals discussed above and the attached revisions to Parts 67 and 69 of the Commission's Rules.²⁰⁴

FEDERAL COMMUNICATIONS COMMISSION
For the Federal-State Joint Board

204 This recommendation is adopted pursuant to Sections 4(i), 4(j), 201, 202, 203, 205, 221, 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 201, 202, 203, 205, 221, 403 and 410 (1986).

Appendix A

List of Parties Filing Comments or Replies in the Reexamination Proceeding

Ad Hoc Telecommunications Users Committee (Ad Hoc)
 Ad Hoc Telecommunications Users Committee, Computer and Business Equipment
 Manufacturers Association, Information Industry Association,
 Tele-Communications Association (ADAPSO)
 The State of Alaska (Alaska)
 ALC Communications Corporation (ALC)
 ALLTEL Corporation (ALLTEL)
 American Association of Retired Persons (AARP)
 American Petroleum Institute, Committee on Telecommunications (API)
 American Telephone and Telegraph Company (AT&T)
 Ameritech Operating Companies (Ameritech)
 Arkansas Public Service Commission (Arkansas)
 Bell Atlantic Telephone Companies (Bell Atlantic)
 BellSouth Corporation (BellSouth)
 The State of California and the Public Utilities Commission of California
 (California)
 Central Telephone Company (Centel)
 Cincinnati Bell Telephone Company (Cincinnati Bell)
 Colorado Public Utilities Commission Staff (Colorado)
 Colorado Office of Consumer Counsel, Office of Consumers' Counsel of the
 State of Georgia, and the Public Counsel Section of the Office of the
 Attorney General of Washington State (Consumers' Counsels)
 Communications Workers of America (CWA)
 Concerned Citizens for Universal Service (CCUS)
 Consumer Federation of America (CFA)
 Contel Corporation (Contel)
 CP National Corporation (CP National)
 Office of the People's Counsel of the District of Columbia
 Public Service Commission of the District of Columbia (District of Columbia)
 Florida Public Service Commission (Florida)
 Granite State Telephone, Merrimack County Telephone Company, Fort Bend
 Telephone Company and Elkhart Telephone Company (Independents)
 GTE Service Corporation (GTOCs)
 Idaho Public Utilities Commission (Idaho)
 Illinois Commerce Commission (Illinois)
 International Communications Association (ICA)
 Kansas Corporation Commission (Kansas)
 Lackawaxen Telephone Company (Lackawaxen)
 MCI Telecommunications Corporation (MCI)
 Michigan Public Service Commission Staff (Michigan)
 Missouri Public Service Commission (Missouri)
 Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone

Company and Pacific Northwest Bell Telephone Company (US West)
 National Association of State Utility Consumer Advocates (NASUCA)
 National Exchange Carrier Association (NECA)
 National Rural Telecom Association (NRTA)
 National Rural Telecom Association, National Telephone Cooperative
 Association, Organization for the Protection and Advancement of Small
 Telephone Companies and United States Telephone Association
 (Joint Comments)
 National Telecommunications and Information Administration (NTIA)
 National Telephone Cooperative Association (NTCA)
 New Jersey Board of Public Utilities (New Jersey)
 New York State Consumer Protection Board
 New York State Department of Public Service (New York)
 New York Telephone Company and New England Telephone and Telegraph Company
 (NYNEX)
 Office of the Consumers' Counsel, State of Ohio (Ohio Consumers' Counsel)
 Organization for the Protection and Advancement of Small Telephone Companies
 (OPASTCO)
 Pacific Bell and Nevada Bell
 Pennsylvania Public Utility Commission Staff (Pennsylvania)
 Puerto Rico Telephone Company (Puerto Rico Telephone)
 Rochester Telephone Corporation (Rochester)
 Shenandoah Telephone Company (Shenandoah)
 Southern New England Telephone Company (SNET)
 Southwestern Bell Telephone Company (Southwestern Bell)
 Public Utility Commission of Texas (Texas)
 United Church of Christ Office of Communication (UCCOC)
 United States Department of Justice (DoJ)
 United States Telecommunications Association (USTA)
 United Telephone System, Inc. (United)
 US Sprint Communications Company (US Sprint)
 Vermont Public Service Board (Vermont)
 Waitsfield-Fayston Telephone Company (Waitsfield-Fayston)
 Wisconsin State Telephone Association (Wisconsin)

Appendix B

Proposed Part 67 & Part 69 Rule Changes

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Proposed Part 67 Rule Changes

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67.613 Submission of Information by the National Exchange Carrier Association

(a) On September 1 of each year after 1987, the National Exchange Carrier Association shall file with the Commission the information listed below. Information filed with the Commission shall be compiled from information provided to the Association by telephone companies pursuant to § 67.611.

- (1) The unseparated loop cost for each study area and a nationwide-average unseparated loop cost.
- (2) The annual amount of the high cost expense adjustment for each study area, and the total nationwide amount of the expense adjustment.
- (3) The dollar amount and percentage of the increase in the nationwide average unseparated loop cost, as well as the dollar amount and percentage increase for each study area, for the previous 5 years, or the number of years NECA has been receiving information under § 67.611, whichever is the shorter time period.

* * * * *

67.631 Expense Adjustment

(a) Until August 31, 1988, for study areas reporting 50,000 or fewer working loops pursuant to § 67.611(a)(8), the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

* * * * *

(b) Until August 31, 1988, for study areas reporting more than 50,000 working loops pursuant to § 67.611(a)(8) the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

(c) Beginning September 1, 1988, for study areas reporting 200,000 or fewer working loops pursuant to § 67.611(a)(8), the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

(1) Sixty-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 115 percent of the national average for this cost but not greater than 150 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(2) Seventy-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 150 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(d) Beginning September 1, 1988, for study areas reporting more than 200,000 working loops pursuant to § 67.611(a)(8), the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

(1) Ten percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 115 percent of the national average for this cost but not greater than 160 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(2) Thirty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 160 percent of the national average for this cost but not greater than 200 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(3) Sixty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 200 percent of the national average for this cost but not greater than 250 percent of the national average for

this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

- (4) Seventy-five percent of the study area average unseparated loop cost per working loop, as calculated pursuant to § 67.622(b) in excess of 250 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

Subpart C - Lifeline Connection Assistance Expense Allocation

67.701 General

- (a) The Lifeline Connection Assistance Expense portion of the interstate apportionment shall consist of an expense adjustment computed in accordance with this Subpart. The expense adjustment will be added to interstate expenses and deducted from state expenses for eligible study areas as defined in this Subpart after all other steps required by this Part have been completed.
- (b) The expense adjustment will be computed as provided in § 67.741.

DEFINITIONS

67.711 Lifeline Connection Assistance

- (a) For purposes of this Subpart, Lifeline Connection Assistance shall describe the following lifeline telephone assistance for eligible residential subscribers as defined in § 67.711(b):
- (1) a reduction in the charges for commencing telephone service assessed for a single telephone line per household at the principal place of residence; and/or
 - (2) a deferred schedule for payment of the charges assessed for commencing service, for which the telephone company does not charge interest.
- (b) In order to be eligible for assistance, a residential subscriber must:
- (1) have lived at an address where there has been no telephone service for at least three months immediately prior to the

date that the assistance described in §§ 67.711(a)(1) and/or § 67.711(a)(2) is requested from the telephone company;

- (2) not have received assistance pursuant to §§ 67.711(a)(1) and/or 67.711(a)(2) within the last two years, with receipt of such assistance to be measured from the date of initiation of the telephone service for which assistance was provided;
 - (3) not be a dependent for federal income tax purposes as defined in 26 U.S.C. § 152 (1986) unless the subscriber is more than 60 years of age; and
 - (4) meet the requirements of a state established income test.
- (c) Charges assessed for commencing service include any state tariffed charges levied for connecting a subscriber to the network. These charges do not include security deposit requirements.

TELEPHONE COMPANY ELIGIBILITY

67.721 Telephone Company Eligibility for Lifeline Connection Assistance Expense Allocation

- (a) In order to be entitled to the additional interstate expense adjustment described in this Subpart a telephone company:
 - (1) must provide Lifeline Connection Assistance as defined in §§ 67.711(a)(1) and/or 67.711(a)(2) to eligible subscribers as defined in § 67.711(b);
 - (2) shall verify that subscribers meet the eligibility criteria set out in §§ 67.711(b)(1)-(2) provided that:
 - (i) verification of subscriber eligibility by designated state officials may be substituted for verification by the telephone company;
 - (ii) if a state determines that it is administratively or economically infeasible for the state or telephone company to verify the eligibility criteria described in §§ 67.711(b)(1)-(2) when the necessary information must be provided by a telephone company or agency outside the state, or when this determination is made in other specified circumstances, self-certification of these criteria will be allowed;

- (iii) if the eligibility criteria described in §§ 67.711(b)(1)-(2) are self-certified, the eligibility criterion described in § 67.711(b)(4) must be verified by the state or by the telephone company;
 - (3) may accept self certification of the eligibility criteria described in §§ 67.711(b)(3)-(4), except as provided in § 67.721(a)(2)(iii).
 - (4) shall file information with the Commission Secretary demonstrating that it is eligible for the additional interstate expense adjustment.
- (b) The additional interstate expense adjustment shall be effective as soon as the Commission certifies that the state or local telephone company is eligible for the additional interstate expense adjustment, the local exchange company files the data required by § 67.731 with the National Exchange Carrier Association, and the relevant tariff provisions become effective.

DATA COLLECTION

67.731 Submission of information to the National Exchange Carrier Association.

- (a) In order to allow calculation of the lifeline expense adjustment each local telephone company wishing to receive the additional interstate expense allocation provided for in this Subpart shall provide the National Exchange Carrier Association established pursuant to Part 69 of the Commission's rules with the information listed below for each of its study areas. The information for the succeeding calendar year is to be filed with the Association on June 30th of each year after certification of the plan by the Commission pursuant to § 67.721(b). The information filed on June 30th of each year will be used in the jurisdictional allocations underlying the cost support data for the access tariffs to be filed the following October.
- (1) an estimate of the number of eligible households which will receive the lifeline assistance described in § 67.711(a)(1) pursuant to a lifeline assistance program which has received Commission certification.
 - (2) an estimate of the average discount on service commencement charges to be provided to each subscriber, not to exceed 50 percent of the charges for commencement of the same service applicable to non-lifeline customers or \$30.00, whichever is

less;

- (3) an estimate of the number of eligible subscribers which will receive the lifeline assistance described in § 67.711(a)(2).
- (4) an estimate of the average deferred interest cost for each subscriber, provided that:
 - (i) the deferred amount on which the cost of interest shall be calculated is not to exceed \$200.00; and
 - (ii) interest shall be applied only to amounts actually outstanding, at the rate for 10-year Treasury Bills on January 1 of each year, with the interest rate adjusted only with each filing.
- (b) In the event that this additional interstate expense allocation is to be in effect for a given study area for less than a full calendar year, the carrier is to submit the information described in §§ 67.731(a)(1)-(4) adjusted to reflect the number of subscribers and the relevant costs for the portion of the year during which this expense adjustment will be in effect as part of its § 67.721(a)(4) submission to the Commission. These data shall be filed with NECA at the same time they are filed with the Commission

CALCULATION OF LIFELINE CONNECTION ASSISTANCE EXPENSE ADJUSTMENT

67.741 Expense Adjustment

- (a) The additional interstate expense allocation shall be calculated by adding the following: (1) the number of households provided pursuant to § 67.731(a)(1) times the dollar amount provided pursuant to § 67.731(a)(2); and (2) the number of households provided pursuant to § 67.731(a)(3) times the dollar amount provided pursuant to § 67.731(a)(4).
- (b) The expense adjustment calculated pursuant to § 67.741(a) shall be adjusted each year to reflect the actual number of lifeline recipients and the actual dollar amount of the benefits provided to them in the previous year. If the actual benefits provided in a given calendar year exceed the estimated benefits for that year calculated pursuant to § 67.741(a), this difference shall be added to the amount calculated pursuant to § 67.741(a) for the following year. If the actual benefits provided in a given year are less than the estimated amount for that year calculated pursuant to § 67.741(a), this difference shall be subtracted from the amount

calculated pursuant to § 67.741(a) for the following year.

- (c) A pro-rata share of the expense adjustment calculated pursuant to § 67.741(a)-(b) shall be subtracted from the intrastate expenses for each account described below as calculated pursuant to the preceding Subparts of Part 67 and added to the interstate expenses for each such account calculated pursuant to the preceding Subparts of Part 67. The pro-rata share for each account shall be calculated by multiplying the total interstate expense adjustment by the ratio of the unseparated expenses for the account involved to the unseparated expenses for all of the accounts listed below:

- (1) Accounts 602.1-602.8 - Repairs of outside plant
- (2) Account 603 - Test desk work
- (3) Account 604 - Repairs of central office equipment
- (4) Account 645 - Local Commercial operations
- (5) Accounts 662 - Revenue Accounting Expenses

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Proposed Part 69 Rule Changes

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69.2 Definitions

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- (hh) Level I Contributors - Telephone companies that are not association Common Line tariff participants, file their own Common Line tariffs effective April 1, 1989, and had a lower than average Common Line revenue requirement per minute of use in 1988 and thus were net contributors (i.e. had a negative net balance) to the association Common Line pool in 1988.
- (ii) Level I Receivers - Telephone companies that are not association Common Line tariff participants, file their own Common Line tariffs effective April 1, 1989, and had a higher than average Carrier Common Line revenue requirement per minute of use in 1988 and thus were net receivers (i.e. had a positive net balance) from the association Common Line pool in 1988.

- (jj) Level II Contributors - A telephone company or group of affiliated telephone companies with fewer than 300,000 access lines and less than \$150 million in annual operating revenues that is not an association Common Line tariff participant, files its own Common Line tariff effective January 1, 1990, and that had a lower than average Common Line revenue requirement per minute of use in 1988 and thus was a net contributor (i.e., had a negative net balance) to the association Common Line pool in 1988.
- (kk) Level II Receivers - A telephone company or group of affiliated telephone companies with fewer than 300,000 access lines and less than \$150 million in annual operating revenues that is not an association Common Line tariff participant, files its own Common Line tariff effective January 1, 1990, and that had a higher than average Carrier Common Line revenue requirement per minute of use in 1988 and thus was a net receiver (i.e., had a positive net balance) from the association Common Line pool in 1988.
- (ll) "Long Term Support" (LTS) means funds provided by telephone companies that are not association Common Line tariff participants to association Common Line tariff participants. LTS enables association Common Line tariff participants to charge a Carrier Common Line (CCL) rate equivalent to the CCL rate that would result if all telephone companies participated in the association Common Line tariff.
- (mm) "Transitional Support" (TRS) means funds provided by telephone companies that are not association Common Line tariff participants, but were net contributors to the association Common Line pool in 1988, to telephone companies that are not association Common Line tariff participants and were net receivers from the association Common Line pool in 1988.

69.3 Filing of access service tariffs

- (e) (1) Such a tariff must cross reference association charges for the Carrier Common Line and End User Common Line element or elements if such company or companies participate in the pooling of revenues and revenue requirements for such elements.

- (e) (9) A telephone company or group of affiliated telephone companies that elects to file its own Common Line tariff

effective April 1, 1989 shall notify the association not later than August 30 of the preceding year that it will no longer participate in the association tariff. A telephone company or group of affiliated telephone companies that elects to file its own Common Line tariff effective January 1, 1990, or thereafter pursuant to Section 69.3(a), shall notify the association not later than June 30 of the preceding year that it will no longer participate in the association tariff. A telephone company or group of affiliated telephone companies that elects to file its own Common Line tariff for one of its study areas shall file its own Common Line tariff(s) for all of its study areas.

69.4 Charges to be filed

- (b) Except as provided in Subpart C of this Part and in Section 69.4(c), the carrier's carrier charges for access service filed with this Commission shall include charges for each of the following elements:

- (c) For all tariffs filed with this Commission that become effective after March 31, 1989, the carrier's carrier charges for access service shall include charges for each of the elements listed in Section 69.4(b) and for each of the following elements:

- (1) Universal Service Fund
- (2) Lifeline Assistance

69.5 Persons to be assessed

- (d) Beginning April 1, 1989, Universal Service Fund and Lifeline Assistance charges shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least: (1) one percent of the total common lines subscribed to interexchange carriers in all study areas; or (2) five percent of the subscribed lines in any study area and a minimum of one thousand subscribed lines in that study area.

69.104 End user common line

- (c) Except as provided in subsections 69.104(d)-(h), the single line rate or charge shall be computed by dividing one-twelfth of the projected annual revenue requirement for the End User Common Line element by the projected average number of local exchange service subscriber lines in use during such annual period.
- (d) If the monthly charge computed in accordance with subsection 69.104(c) exceeds \$6, the charge for each local exchange service subscriber line, except a residential line, a single-line business line, or a line used for Centrex-CO service that was in place or on order as of July 27, 1983, shall be \$6.
- (e) The monthly charge for each residential or single line business local exchange service subscriber shall be the charge computed in accordance with subsection 69.104(c), or the relevant transitional charge established in Section 69.203, whichever is lower.
- (f) Except as provided in subsections 69.104(j) and (k), the charge for each residential local exchange service subscriber line shall be the same as the charge for each single line business local exchange service subscriber line.
- (g) A line shall be deemed to be a residential line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.
- (h) A line shall be deemed to be a single line business line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.
- (i) The End User Common Line charge for each multi-party subscriber shall be assessed as if such subscriber had subscribed to single-party service.
- (j) The End User Common Line charge for a residential subscriber shall be 50% of the charge specified in subsections 69.104(c) and (d) if the residential local exchange service rate for such subscribers is reduced by an equivalent amount, provided that such local exchange service rate reduction is based upon a means test that is subject to verification.

(k) (1) The End User Common Line charge for residential subscribers shall be reduced to the extent of the state assistance as calculated in subsection (k)(2) of this section, or waived in full if the state assistance equals or exceeds the residential End User Common Line charge under the circumstances described below. In order to qualify for this waiver, the subscriber must be eligible for and receive assistance or benefits provided pursuant to a narrowly targetted telephone company lifeline assistance program, requiring verification of eligibility, implemented by the state or local telephone company. A state or local telephone company wishing to implement this End User Common Line reduction or waiver for its subscribers shall file information with the Commission Secretary demonstrating that its plan meets the criteria set out in this section and showing the amount of state assistance per subscriber as described in subsection (k)(2) of this section. The reduction or waiver of the End User Common Line charge shall be available as soon as the Commission certifies that the state or local telephone plan satisfies the criteria set out in this subsection and the relevant tariff provisions become effective.

(2)(i) The state assistance per subscriber shall be equal to the difference between the charges to be paid by the participating subscribers and those to be paid by other subscribers for comparable monthly local exchange service, service connections and customer deposits, except that benefits or assistance for connection charges and deposit requirements may only be counted once annually. In order to be included in calculating the state assistance, such benefits must be for a single telephone line to the household's principal residence.

(ii) The monthly state assistance per participating subscriber shall be calculated by adding the amounts calculated in paragraphs (k)(2)(ii)(A) and (B) of this section.

(A) The amount of the monthly state assistance per participating subscriber for local exchange service shall be calculated by dividing the annual difference between charges paid by all participating subscribers for residential local exchange service and the amount which would have been charged to non-qualifying subscribers for comparable service by twelve times the number of subscribers participating in the state assistance program. Estimates may be used when historic data are not available.

(B) The amount of the monthly state assistance for service connections and customer deposits per participating subscriber shall be calculated by determining the annual amount of the reductions in these charges for participating subscribers each year and dividing this amount by twelve times the number of participating subscribers. Estimates may be used when historic data are not available.

- (1) In connection with the filing of access tariffs pursuant to Section 69.3(a), telephone companies shall calculate for the association their projected revenue requirement attributable to the operation of Sections 69.104(j)-(k). The association shall add such amounts to the Lifeline Assistance revenue requirement, bill and collect such amounts from interexchange carriers pursuant to Sections 69.116-69.117, and distribute the funds to qualifying telephone companies pursuant to Section 69.603(d).

(m) No charge shall be assessed for any WATS access line.

69.105 Carrier Common Line

- (a) A charge that is expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers that use local exchange common line facilities for the provision of interstate or foreign telecommunications services, except that the charge shall not be assessed upon interexchange carriers to the extent they resell MTS or MTS-type services of other common carriers (OCCs).
- (b) (1) The Carrier Common Line charge of association Common Line tariff participants shall be computed by dividing the projected Carrier Common Line revenue requirement of such telephone companies, plus the projected Carrier Common Line revenue requirement of telephone companies that are not association Common Line tariff participants, by the projected annual access minutes of use for all interstate and international services that use local exchange common line facilities and are subject to charges under paragraph (a) of this section. Each minute of use of any local exchange common line by such services shall be counted for purposes of computing this charge. Telephone companies that are not association Common Line tariff participants shall submit to the Commission and to the association whatever data the Commission shall determine are necessary to calculate this charge.

- (2) The Carrier Common Line charge(s) of telephone companies that are not association Common Line tariff participants shall be computed at the level of Carrier Common Line access element aggregation selected by such telephone companies pursuant to Section 69.3(e)(7). The charge for each such element shall be computed by dividing the projected Carrier Common Line revenue requirement by the projected annual access minutes for all interstate or foreign services that use local exchange common line facilities related to such revenue requirement.

69.116 Universal Service Fund

Effective April 1, 1989:

- (a) A charge that is expressed in dollars and cents per line per month shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least: (1) one percent of the total common lines presubscribed to interexchange carriers in all study areas; or (2) five percent of the presubscribed lines in any study area and a minimum of one thousand presubscribed lines in that study area.
- (b) The charge shall be computed by the association on a semi-annual basis by dividing one-twelfth of the projected annual Universal Service Fund revenue requirement by the total number of common lines presubscribed to interexchange carriers defined in Section 69.116(a). The association shall bill and collect the charge, and disburse associated revenue, on a monthly basis pursuant to Section 69.603(c).
- (c) Telephone companies shall provide to the association the data necessary to compute the charge. These data shall include the number of presubscribed common lines in each study area and the number of those lines associated with each interexchange carrier serving that study area. In a study area served by a single interexchange carrier, all common lines shall be considered as presubscribed to that interexchange carrier. Information concerning presubscribed common lines shall be filed with the association on June 30 and January 2 of each year, beginning on June 30, 1988. Presubscribed common line data filed on June 30 shall be calculated as of December 31 of the preceding year, and presubscribed common line data filed on January 2 shall be calculated as of June 30 of the preceding year.

69.117 Lifeline Assistance

Effective April 1, 1989:

- (a) A charge that is expressed in dollars and cents per line per month shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least: (1) one percent of the total common lines presubscribed to interexchange carriers in all study areas; or (2) five percent of the presubscribed lines in any study area and a minimum of one thousand presubscribed lines in that study area.
- (b) The charge shall be computed by the association on a semi-annual basis by dividing the sum of one-twelfth of the projected annual Lifeline Assistance revenue requirement and one-twelfth of the projected annual revenue requirement calculated by all telephone companies pursuant to Section 69.104(1) by the number of common lines presubscribed to interexchange carriers defined in Section 69.117(a). The association shall bill and collect the charge, and disburse associated revenue, on a monthly basis pursuant to Section 69.603(d).
- (c) Telephone companies shall provide to the association the data necessary to compute the charge. These data shall include the number of presubscribed common lines in each study area and the number of those lines associated with each interexchange serving that study area. In a study area served by a single interexchange carrier, all common lines shall be considered as presubscribed to that interexchange carrier. Information concerning presubscribed common lines shall be filed with the association on June 30 and January 2 of each year, beginning on June 30, 1988. Presubscribed common line data filed on June 30 shall be calculated as of December 31 of the preceding year, and presubscribed common line data filed on January 2 shall be calculated as of June 30 of the preceding year.

69.202 Initial End User Common Line Charges

DELETE

69.203 Transitional End User Common Line Charges

- (a) Except as provided in Sections 69.104 and 69.204, the End User Common Line charge for single line business subscribers, single line residential subscribers, and multi-line residential subscribers shall be the lesser of the charge computed in Section 69.104(c) or \$2 per line per month until May 31, 1987; \$2.60 per line per month during the period from June 1, 1987 through August 31, 1988; \$3.20 per line per month during the period from

September 1, 1988 through March 31, 1989; and \$3.50 per month thereafter.

- (b) The End User Common Line charge for each subscriber line used for Centrex-CO service that was in place or on order as of July 27, 1983, shall be the lesser of the charge computed in Section 69.104(c) or \$3 per line per month until May 31, 1987; \$4 per line per month during the period from June 1, 1987 through August 31, 1988; \$5 per line per month for the period from September 1, 1988 through March 31, 1988; and \$6 per line per month thereafter.

- (c) No charge shall be assessed for any WATS access line.

* * * * *

69.207 Interim Carrier Common Line Charges

Notwithstanding Sections 69.203 and 69.205, the transitional premium charges for the Carrier Common Line element shall be computed in accordance with this section during the period commencing June 1, 1986, and concluding August 31, 1988. For purposes of this section, the term "open end" of a call refers to the origination or termination of a call that utilizes exchange carrier common line plant. (A call can have no, one, or two open ends). The transitional premium charges for the Carrier Common Line element shall be expressed in dollars and cents per access minute. The charge shall be 4.33 cents per premium minute for: (i) All terminating premium minutes on calls with two open ends (e.g., an MTS or OCC MTS-type call); and (ii) all WATS-type or FX calls. For purposes of this section, the term "originating-II minutes" refers to originating minutes on calls with two open ends. The charge on premium originating-II minutes shall be computed by subtracting the sum of the projected revenues generated from (i) the 4.33 cents per minute premium charge described above and (ii) the corresponding non-premium charge, from the carrier common line revenue requirement and dividing the remainder by the sum of the projected premium originating-II minutes and a number equal to .45 multiplied by the projected non-premium originating-II minutes. For purposes of this section, if the calculations described above result in a negative per minute charge on originating-II minutes, such charge shall be adjusted to equal .00 cents, and the charge of 4.33 cents on terminating minutes shall be lowered accordingly.

* * * * *

69.410 Other Expenses

69.604 Billing and Collection of Access Charges

- (a) Telephone companies shall bill and collect all access charges except those charges specified in Sections 69.116 and 69.117.

69.605 Reporting and Distribution of Pool Access Revenues

- (a) Access revenues and cost data shall be reported by participants in association tariffs to the association for computation of monthly pool revenues distributions in accordance with this Subpart.

69.612 Long Term and Transitional Support

A telephone company that does not participate in the association Common Line tariff shall have computed by the association:

- (a) Long Term Support Obligation

The Long Term Support payment obligation of telephone companies that are not association Common Line tariff participants shall be equivalent to the difference between the projected Carrier Common Line revenue requirement of association Common Line tariff participants and the projected revenue recovered by the association Carrier Common Line charge as calculated pursuant to Section 69.105(b)(1).

- (1) For the period from April 1, 1989 through March 31, 1994, the Long Term Support payment obligation shall be funded by all telephone companies that are not association Common Line tariff participants and do not receive transitional support pursuant to subsection 69.612(b). The percentage of the total annual Long Term Support requirement paid by each telephone company in this group that is not a Level I or Level II Contributor shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The remaining amount of Long Term Support requirement shall be allocated among Level I and Level II Contributors based upon the amount of each Level I and Level II Contributor's 1988 contributions to the association Common Line pool in relation to the total amount of 1988 Common Line pool contributions of all other Level I and Level II Contributors. The association shall inform each telephone company about its mandatory Long Term Support obligation within a reasonable time prior to the

filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to Section 69.603(e).

- (2) Beginning April 1, 1994, and thereafter, the Long Term Support payment obligation shall be funded by each telephone company that files its own Carrier Common Line tariff and does not receive transitional support. The percentage of the total annual Long Term Support requirement paid by each of these companies shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The association shall inform each telephone company about its mandatory Long Term Support obligation within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to Section 69.603(f).

(b) Transitional Support

- (1) Telephone Companies categorized as Level I and Level II Receivers that file their own Common Line tariffs effective April 1, 1989 shall receive Transitional Support for a four year period commencing April 1, 1989. Level II Receivers that file their own Common Line tariffs effective January 1, 1990 shall receive Transitional Support for a four year period commencing January 1, 1990. Transitional Support for each of these telephone companies shall be computed on the basis of its net revenues less revenue requirement amounts for 1988 (adjusted for the additional revenues resulting from an increase in End User Common line charges to \$3.50). Transitional Support for these telephone companies during the transition period shall be as follows:

Year 1 - 80% of the adjusted 1987 frozen amount
 Year 2 - 60% of the adjusted 1987 frozen amount
 Year 3 - 40% of the adjusted 1987 frozen amount
 Year 4 - 20% of the adjusted 1987 frozen amount

- (2) For the period from April 1, 1989 through December 31, 1994, the Transitional Support Fund shall be funded by all telephone companies or groups of affiliated telephone companies that are not association Common Line tariff

participants and do not qualify under Section 69.612(b)(1) for Transitional Support payments. The percentage of the total annual Transitional Support requirement paid by each telephone company or group of affiliated telephone companies meeting this definition that is not a Level I or Level II Contributor shall equal the number of its common lines divided by the total number of common lines of all companies paying Transitional Support. The percentage of the remaining Transitional Support requirement shall be allocated among Level I and Level II Contributors based upon the amount of each Level I and Level II Contributor's 1988 contributions to the association Common Line Pool in relation to the total amount of 1988 Common Line pool contributions of all other Level I and Level II Contributors. The Association shall inform each Level I and Level II Contributor about its mandatory Transitional Support payment within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due the association from Level I and Level II Contributors that the association shall bill, collect, and distribute pursuant to Section 69.603(f).

HB 23 - "Lifeline" Telephone Service

* Federal Program is called LINKUP AMERICA.

A. Feds will pay one-half the phone installation charge ... up to \$30 ... not more than once every two years per family.

B. The local phone company can then allow its customer to pay off the remaining one-half installation fee over a two year period ... the Feds pay the interest charge.

C. The Feds will pay the local phone company 100% of the subscriber line charge ... now \$2/month, increasing to \$3.50/month within two years.

* The money to pay for LINKUP AMERICA will come from a surcharge placed on large, long distance phone companies ... will probably amount to about one cent/call.

- Alascom is already heavily subsidized by AT&T and lower '48 ratepayers, and therefore Alaska rate payers won't notice the surcharge.

THE FOLLOWING DOCUMENT HAS
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Public Utilities

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Vol. 118 No. 5

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A NEW CHIEF EXECUTIVE OFFICER SPEAKS OUT

An interview with PG&E's Richard A. Clarke

A LESSON FROM GRAND GULF: A GAP IN JURISDICTION

By Sheldon L. Blerman

CAPITAL STRUCTURE MAINTENANCE: A CHALLENGE FOR ELECTRIC UTILITIES

By Carl G. K. Weaver and Mark S. Gerber

PLANNING NEEDED FOR NUCLEAR PLANT LIFE EXTENSION

By Lawrence P. Williams



PUBLIC UTILITIES REPORTS, INC., PUBLISHERS

Further background information appeared in EPA's tentative determination (Vol. 50, No. 222, FR 47071, November 14, 1985). Along with the tentative determination, EPA announced the availability of the Territory's application for public comment and a hearing was scheduled. The public hearing was not held as scheduled on December 19, 1985 since neither EPA nor the Territory received significant interest in holding the hearing. Therefore, EPA has determined that the Territory's hazardous waste program satisfies all necessary requirements for Final Authorization.

Decision

I conclude that the Territory's application for Final Authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, the Territory of Guam is granted Final Authorization to operate its hazardous waste program subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984) (HSWA). This means that the Territory of Guam now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program. The Territory of Guam also has primary enforcement responsibility, although EPA retains the right to conduct inspections and request information under Section 3007 of RCRA, to take enforcement actions under sections 3008, 3013 and 7003 of RCRA and to enforce certain provisions of Territorial law.

Prior to the Hazardous and Solid Waste Amendments (HSWA), a State with Final Authorization would have administered its hazardous waste program entirely in lieu of the EPA. EPA's regulations no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was not authorized to permit.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), the new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so.

As a result of the HSWA, there will be a dual Territorial/Federal regulatory program in Guam after final authorization. To the extent the Territorial program is unaffected by the HSWA, the Territorial program will

operate in lieu of the Federal program. If the HSWA-related provisions are more stringent than Guam's, EPA will administer and enforce the portions of the HSWA in Guam until the Territory receives authorization to do so. Among other things, this will entail the issuance of Federal RCRA permits for those areas in which the Territory is not yet authorized. Once Guam is authorized to implement a HSWA requirement or prohibition, the Territorial program in that area will operate in lieu of the Federal program. Guam is not being authorized now for any requirement implementing the HSWA. Until that time the Territory will assist EPA's implementation of the HSWA under a Cooperative Agreement. Any Territorial requirement that is more stringent than a HSWA provision remains in effect. For example, if Guam had more specific requirements for treatment facilities, they must comply with the more stringent Territorial requirements.

The Territorial program does not include jurisdiction over Indian Lands, because there are no Indian Lands in Guam.

EPA has published a Federal Register notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702-28755, July 15, 1985.

Compliance With Executive Order 12291

The Office of Management Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605 (b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Guam's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the Territory. It does not impose any burdens on small entities. This rule therefore, does not require a regulatory flexibility analysis.

Authority

This rule is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: December 12, 1985.

Judith E. Ayres

Regional Administrator

[FR Doc. 86-668 Filed 1-10-86; 8:45 am]

BILLING CODE 5640-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 78-72; CC Docket No. 80-286; FCC 85-643]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In the above-mentioned *Decision and Order*, the Commission adopted the recommendations of the Federal-State Joint Board regarding broader lifeline measures to aid low income households in affording telephone service. Under the approach recommended by the Joint Board, the Commission would provide matching assistance up to the full amount of the subscriber line charges for subscribers receiving benefits under a qualifying state or local telephone company assistance plan. The Commission took this action to provide the states and local telephone companies with additional incentive to implement local lifeline assistance programs. This program will promote telephone subscribership among low income groups.

EFFECTIVE DATE: February 3, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Margot Bester or Claudia Pabo, Common Carrier Bureau (202) 632-6363.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 69

Communications common carriers, Telephone.

Decision and Order

In the Matter of MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a

Joint Board CC Docket No. 78-72, CC Docket No. 80-288.

Adopted: December 10, 1985.

Released: December 27, 1985.

By the Commission.

I. Introduction

A. Summary

1. In its *Recommended Decision and Order*,¹ adopted October 11, 1985, the Federal-State Joint Board in this proceeding recommended that the Commission implement federal lifeline assistance measures to assist low income households in affording telephone service. Under the approach recommended by the Joint Board, the Commission would provide matching assistance, up to the full amount of the subscriber line charge, for subscribers receiving benefits under a qualifying state and local telephone company assistance plan. Based upon the record and the Joint Board's analysis in its *Recommended Decision* we are endorsing and adopting its recommendation. We believe that implementation of this program will provide the states and local telephone companies with a strong incentive to implement local lifeline assistance programs, and promote telephone subscribership among low income groups.

B. Background

2. The preservation of universal telephone service has been one of the Commission's long-standing goals in the *MTS and WATS Market Structure* proceeding, CC Docket No. 78-72. In the *Third Report and Order*,² in that proceeding, the Commission stated that it would consider requests by local exchange carriers for waiver of the mandatory flat rate subscriber line charge in the case of low income households that might otherwise be unable to afford telephone service. In the *Second Reconsideration Order*,³ we found that the existing record did not contain sufficient information to allow the development of a federal lifeline assistance program, but stated that we would conduct further proceedings concerning this matter. We subsequently asked the Joint Board in CC Docket No. 80-288, *Amendment of part 67 of the Commission's Rules*, to prepare recommendations concerning lifeline

assistance.⁴ The Joint Board recommended that the Commission implement the equivalent of a waiver of the subscriber line charge for low income households, and proceed with an expedited study of broader lifeline assistance measures.⁵ In our December 1984 *Decision and Order*,⁶ we adopted the Joint Board's recommendations and directed the Joint Board to begin a study of broader assistance measures. The Joint Board released an *Order Inviting Comments* on March 29, 1985.⁷ It subsequently concluded that additional information was necessary in order to resolve this matter, and issued an *Order Inviting Further Comments* on July 28, 1985.⁸

II. Joint Board Recommendation

3. The Joint Board found that telephone subscribership levels have remained stable in recent years, and should remain stable or increase in the future. This conclusion was based on Census Bureau data showing telephone subscribership levels, Department of Labor data concerning the rate of increase in local telephone rates, data on pending state rate increase requests, and previous Commission studies of the effect of federal policies on local rate levels, in addition to the information contained in the comments.⁹ At the same time, the Joint Board recognized that telephone subscribership is below average in the lowest income groups. In order to assist low income households in affording telephone service during this period of rapid change in the telephone industry, the Joint Board recommended that we adopt a federal lifeline assistance program to supplement the benefits provided under qualifying state

or local telephone company lifeline service offerings.

4. The Joint Board recommended that federal assistance be provided through a waiver of the subscriber line charge, up to the amount of the state funded assistance provided for participating households under highly targeted lifeline assistance programs, for example, those providing benefits to individuals who receive Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC). The Joint Board also recommended that qualifying state or local telephone company programs be required to provide for verification of eligibility. Federal assistance would be available for a single telephone line for the principal residence of eligible households. Under the Joint Board proposal, the state contribution subject to matching federal assistance would include reduced rates for local telephone service, reduced connection charges or customer deposit requirements. State funding would be derived from any intrastate source. State or local telephone company lifeline programs which do not meet these criteria would not be eligible for this federal assistance. No showing of actual or imminent declines in telephone subscribership levels would be required as a precondition to receiving federal assistance, however.

5. The Joint Board also recommended that states and local telephone companies seeking to obtain supplemental federal assistance for their subscribers be required to submit information to the Commission demonstrating that their plans meet these criteria. The Joint Board recommended that the Chief, Common Carrier Bureau be given delegated authority to act on these lifeline plans to facilitate implementation.¹⁰ Assistance would be available as soon as the Bureau certifies that the plan satisfies the federal guidelines and the necessary tariff revisions become effective. In addition, the Joint Board recommended that the Commission require participating states to monitor the effectiveness of lifeline programs and provide the Joint Board and the Commission with annual reports concerning certain aspects of their plans.¹¹ The Joint Board further

¹ *Further Notice of Proposed Rulemaking*, CC Docket Nos. 78-72 and 80-288, 49 FR 18318 (April 20, 1984).

² *Recommended Decision and Order*, CC Docket Nos. 78-72 and 80-288, 49 FR 48325 (December 12, 1984).

³ CC Docket Nos. 78-72 and 80-288, 50 FR 939 (January 8, 1985).

⁴ CC Docket Nos. 78-72 and 80-288, 50 FR 14727 (April 15, 1985). This *Order* requested comments on four basic issues: (1) The proper state and federal roles in implementing lifeline assistance measures; (2) criteria for determining eligibility for such assistance; (3) the type of lifeline telephone service which should be made available to eligible subscribers; and (4) the mechanism for funding these measures.

⁵ CC Docket Nos. 78-72 and 80-288, 50 FR 31738 (August 8, 1985). In this *Order*, the Joint Board asked interested parties to comment on: (1) The types of service offerings and assistance programs currently available to low income households; (2) telephone subscribership levels and toll usage by low income households; and (3) the need for and/or appropriate level of federal funding for such assistance programs.

⁶ See *Recommended Decision and Order*, CC Docket Nos. 78-72 and 80-288 FCC No. 85-639 at paras. 28-33, (released December 9, 1985).

¹⁰ The Joint Board recommended that it prepare a recommendation should a party seek Commission review of a Bureau Chief decision not to approve supplemental assistance.

¹¹ These reports would include a description of the assistance measures, the cost of the program, the number of households taking advantage of the program, as well as information on the number of

¹ *MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-288, FCC No. 85-639, (released December 9, 1985).

² 93 FCC 2d 241 (1983).

³ CC Docket No. 78-72, 49 FR 7810 (March 2, 1984).

recommended that it review the effectiveness of the federal lifeline assistance program in conjunction with its review of subscriber line charges, scheduled to begin in late 1986.

III. Discussion

6. The Commission hereby adopts the Joint Board's recommendation for the implementation of a federal lifeline assistance program. We also adopt the Joint Board's reasoning in support of its recommendation as our own. The information in this proceeding demonstrates that telephone subscribership levels have remained stable in recent years and will remain stable or increase in the future. The April 1980 Census showed that 92.9 percent of households in the United States subscribed to telephone service. Census Bureau data for April 1983, prior to the AT&T divestiture and the implementation of subscriber line charges, showed that 91.9 percent of households subscribed to telephone service. A Census Bureau survey of 58,000 households which has been conducted in March, July and November of each year since November, 1983 demonstrates that telephone subscribership levels have remained stable.¹² The Census Bureau survey data for November, 1983 showed that 91.4 percent of American households had a telephone in their home.¹³ The survey data for July 1985 showed that 91.8 percent of households had a telephone in the home.¹⁴ This data also showed that telephone subscribership levels have remained stable among the unemployed and households in the four lowest income categories.¹⁵ The comments filed in this proceeding support the results of the Census Bureau surveys of telephone subscribership. None of the telephone companies filing comments stated that they had experienced declines in subscribership

existing subscribers who switch to lifeline service from other service offerings and the number of new subscribers using the service. The Joint Board also asked that these reports contain any available information concerning the effect of the plan on subscribership levels among low income groups.

¹²Letter to Mr. Edward J. Minkel, Managing Director, FCC from Kenneth A. Riccini, Chief, Current Population Surveys Branch, Demographic Surveys Division, Bureau of the Census, at Table 1, dated October 3, 1985.

¹³Letter to Mr. Edward J. Minkel from Kenneth A. Riccini, at Table 1, dated October 3, 1985. This reflects the number of households with a telephone in the home. The percentage of households reporting that telephone service is available to them is slightly higher.

¹⁴*Id.*

¹⁵*Id.* at Tables 2 and 4. See *Recommended Decision and Order*, CC Docket No. 78-72 and 80-208, FCC 85-639 at para. 28 (released December 9, 1985).

levels, and a number of companies reported increases in subscribership levels despite significant rate increases.

7. However, certain parties argue that local telephone rates will escalate rapidly over the next several years, seriously undermining universal service. The information currently available does not support this contention.¹⁶ To the contrary, it indicates that increases in telephone rates will remain at moderate levels. The Commission has conducted two studies concerning the effect of federal decisions on local telephone service rates. The Commission's initial *Michigan Report*¹⁷ issued in December, 1983, concluded, among other things, that existing federal policies would not cause minimum charges for residential telephone service to increase sharply or cause residential subscribers to discontinue service. The *Michigan II Report*¹⁸ issued in January 1985, affirmed the conclusion reached in the initial *Michigan Report*. As part of our efforts to monitor universal telephone service, we have also examined the revenue increase requests filed by telephone companies at the state level. The level of rate increase requests pending before the state commissions has decreased significantly since 1984.¹⁹ Department of Labor data on increases in local telephone rates also show moderate, although steady increases in local telephone rates over the last several years.²⁰

8. Despite the fact that telephone subscribership levels have remained stable for all income groups, and should remain stable or increase in the future, subscribership among those in the lowest income categories is significantly below the national average. We endorse the Joint Board's recommendation for implementation of a narrowly targeted federal lifeline assistance program to assist these low income households in

affording telephone service.²¹ Despite the consensus in the comments in opposition to funding this assistance through telephone industry revenues, rather than directly, we agree with the Joint Board's conclusion that this is a realistic approach at present. The provision of matching federal assistance to households receiving benefits under a qualifying state or local telephone company lifeline assistance plan will provide a strong incentive for implementation of assistance plans that respond appropriately to local conditions. We strongly encourage the states and local telephone companies to participate in this program,²² and we have every reason to expect that the states and local telephone companies will act in a responsible manner to preserve universal telephone service. Although the record in this proceeding does not support imposition of a mandatory federal program, we would be deeply concerned if the states or local companies fail to act should they experience a decline in subscribership levels.

9. We agree that the provisions which the Joint Board has recommended for targeting assistance and verifying eligibility will ensure that the federal assistance is directed to those households with the greatest need. We also concur in the Joint Board's recommendation that the supplemental federal assistance be provided through a waiver of the subscriber line charge. This represents a reasonable level of funding in light of existing local rate levels and will be relatively easy to implement. We also endorse the Joint Board recommendation for funding the federal assistance through the carrier common line charge. In addition, we support the Joint Board recommendation that states and local telephone companies wishing to make supplemental federal assistance available to their subscribers be required to submit information to the Commission demonstrating that their plans meet the federal criteria. Review of these plans by the Chief, Common Carrier Bureau to ensure compliance will allow funding for qualifying plans to be made available expeditiously. We also support the Joint Board's recommendation for review of this program in conjunction with the Joint

¹⁶ See *Recommended Decision and Order*, CC Docket No. 78-72 and 80-208, FCC 85-639 at paras. 32 and 33 (released December 9, 1985).

¹⁷ *Order, Petition by the State of Michigan Concerning the Effect of Certain Federal Decisions on Local Telephone Service* ("Michigan Report"), 90 FCC 2d 891 (1983).

¹⁸ *Further Report on the Effects of Federal Decisions on Universal Service*, FCC No. 84-638, (released January 9, 1985).

¹⁹ *Summary of State Telephone Rate Cases* (released September 30, 1985). There were approximately \$7 billion in state rate increase requests pending before state commissions by the end of 1983. At present, there are approximately \$3 billion in pending rate increase requests before the state commissions.

²⁰ U.S. Department of Labor, Bureau of Labor Statistics, Producer Price Index, Series 4811-111, Local Service, Residential; Consumer Price Index, U.S. City Average, Local Telephone Charges.

²¹ This program is in addition to existing provisions which allow the equivalent of a waiver of the subscriber line charge waiver for low income households.

²² In this regard, we urge states which have constitutional, statutory or judicially imposed prohibitions on telephone assistance programs to eliminate these restrictions.

Board's reexamination of subscriber line charges, scheduled to begin in 1986. This will allow us to make any adjustments which prove to be desirable based on our experience in implementing this program.

V. Ordering Clauses ²³

10. Accordingly, the Commission adopts the Joint Board's recommendation concerning federal lifeline assistance measures to aid low income households in affording telephone service.

11. It is further ordered, that § 69.203 of the Commission's rules is amended as set out in Attachment A, effective February 3, 1986.

12. It is further ordered, that the Chief, Common Carrier Bureau is delegated authority to act on lifeline assistance plans as recommended by the Joint Board.²⁴

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

PART 69—[AMENDED]

Part 69 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 69 continues to read:

Authority: Sections 4, 201, 202, 203, 205, 210, 403, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403 of the Communications Act, as amended.

2. Section 69.203(d) is amended by substituting the phrase "paragraphs (f) and (g)" for "subsection (f)".

3. Section 69.203 is amended by adding the following paragraph (g):

§ 69.203 Interim Common Line charges.

(g)(1) The End User Common Line charge for residential subscribers shall be reduced to the extent of the state assistance as calculated in (g)(2) of this section, or waived in full if the state assistance equals or exceeds the residential End User Common Line Charge under the circumstances described below. In order to qualify for this waiver, the subscriber must be eligible for and receive assistance or benefits provided pursuant to a

narrowly targeted telephone lifeline assistance plan requiring verification of eligibility, implemented by the state or local telephone company. A state or local telephone company wishing to implement this End User Common Line reduction or waiver for its subscribers shall file information with the Commission Secretary demonstrating that its plan meets the criteria set out in this section, and showing the amount of state assistance per subscriber as described in (g)(2) of this section. The reduction or waiver of the End User Common Line Charge shall be available as soon as the Commission certifies that the state or local telephone plan satisfies the criteria set out in this subsection, and the relevant tariff provisions become effective.

(2)(i) The state assistance per subscriber shall be equal to the difference between the charges to be paid by participating subscribers and those to be paid by other subscribers for comparable monthly local exchange service, service connections and customer deposits, except that benefits or assistance for connection charges and deposit requirements may only be counted once annually. In order to be included in calculating the state assistance, such benefits must be for a single telephone line to the household's principal residence.

(ii) The monthly state assistance per participating subscriber shall be calculated by adding the amounts calculated in paragraphs (g)(2)(ii) (A) and (B) of this section.

(A) The amount of the monthly state assistance per participating subscriber for local exchange service charges shall be calculated by dividing the annual difference between the charges paid by all participating subscribers for residential local exchange service and the amount which would have been charged to non-qualifying subscribers for comparable service by twelve times the number of subscribers participating in the state assistance program. Estimates may be used when historic data is not available.

(B) The amount of the monthly state assistance for service connections and customer deposits per participating subscriber shall be calculated by determining the annual amount of the reductions in these charges for participating subscribers each year, and dividing this amount by twelve times the number of participating subscribers. Estimates may be used when historic data is not available.

[FR Doc. 86-517 Filed 1-10-86; 8:45 am]

BILLING CODE 0712-01-M

47 CFR Part 73

[MM Docket No. 85-91; FCC 85-653]

Expanding the Use of Automatic Transmission Systems at AM, FM and Television Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action extends the permitted use of automatic transmission systems (ATS) to include use by directional AM stations and television stations. Nondirectional AM stations and FM stations have been allowed use of ATS since 1976. Recent technological advances and Commission actions have eliminated the barriers preventing authorization of ATS use by directional AM stations and television licensees. This action is therefore needed to allow these services the flexibility of ATS use, and to update the ATS rules which have remained unchanged since 1976.

EFFECTIVE DATE: February 5, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Mass Media Bureau (202) 632-9680.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Report and Order

(Proceeding Terminated)

In the Matter of Amendment of the Commission's Rules to Expand the Use of Automatic Transmission Systems at AM, FM and Television Broadcast Stations (MM Docket 85-91).

Adopted: December 18, 1985.

Released: January 6, 1986.

Introduction

1. By this *Report and Order*, the Commission is amending its Rules to expand the permitted use of automatic transmission systems (ATS) for directional AM and television stations. (Currently, ATS use is permitted for FM and nondirectional AM stations only.) In addition, this action deregulates the Commission's ATS requirements.

Background

2. An ATS consists of devices that monitor and automatically control the broadcast station's transmission system. The ATS system initiates an alarm to the operator whenever a malfunction or an uncorrected out of tolerance

²³ The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burdens upon the public. The implementation of new or modified requirements or burdens is subject to approval by the Office of Management and Budget as prescribed by the Act.

²⁴ This action is taken pursuant to sections 4 (j) and (j), 5, 201, 202, 203, 205, 218, 221, 403 and 410 of the Communications Act, as amended, U.S.C. 154(i), 155, 201, 202, 203, 205, 218, 221, 403 and 410.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300141A; FRL-2946-1]

Proposed Tolerance for Ethylene Dibromide; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule; Extension of Comment Period.

SUMMARY: This notice announces the extension of the comment period on the proposed rule published in the Federal Register on November 27, 1985 (50 FR 48779) that proposed a tolerance for residues of ethylene dibromide (EDB) *per se* of .03 ppm (30 ppb) in the edible pulp of mangoes that have been fumigated after harvest with the insecticide ethylene dibromide (EDB). The comment period has been extended from December 27, 1985 to January 10, 1986.

DATE: Comments identified by the document control number [OPP-300141], must be received on or before January 10, 1986.

ADDRESS: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record.

Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Linda K. Vlier, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-7451).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of November 27, 1985 (50 FR 48779) that proposed the establishment of a tolerance of 30 ppb (.03 ppm) in 40 CFR 180.397 for residues of the insecticide ethylene dibromide (EDB) in the edible pulp of the raw agricultural commodity mangoes resulting from fumigation of this commodity after harvest in accordance with the Mediterranean Fruit Fly Control Program of the U.S. Department of Agriculture, effective until September 30, 1986, with the possibility of extension for an additional year.

The Florida Fruit and Vegetable Association has requested that EPA extend the comment period on this proposed rule in order to allow that association a meaningful opportunity to comment. In support of this request, the Florida Fruit and Vegetable Association points out that the real time for submitting comments to the rule is substantially shorter than the allowed time because of the two major national holidays falling within this period.

The Agency has carefully reviewed the request of the Florida Fruit and Vegetable Association, and has concluded that allowing some additional comment time is reasonable to afford all interested parties a meaningful opportunity to comment. Accordingly, the comment time on this proposal has been extended 14 days until January 10, 1986.

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agriculture commodities, Pesticides and pests.

Dated: December 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-30802 Filed 2-28-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 78-72; CC Docket No. 80-286; FCC 85-639]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Recommended Decision and Order in the Matter of MTS and WATS Market Structure and Amendment of

Part 69 of the Commission's Rules and Establishment of a Joint Board—CC Docket Nos. 80-286 and 78-72.

SUMMARY: On December 9, 1985, the Federal-State Joint Board recommended that the Commission adopt broader lifeline assistance measures in order to assist low income households in affording telephone service. The Joint Board recommended that federal assistance be provided through a waiver of the subscriber line charge up to the amount of the state assistance provided for qualifying households. This matching assistance would be made available to subscribers receiving assistance under highly targeted programs which provide for verification of eligibility. The state contribution could take the form of reduced local telephone service rates, reduced connection charges or deposit requirements for a single telephone line to the principal residence of eligible households. The Joint Board recommended that the federal assistance be funded through the interstate carrier common line charge. The Joint Board made this recommendation because the record showed that telephone subscribership is below average in the lowest income groups, although telephone subscribership levels for all income groups have remained stable in recent years and should remain stable in the future. Implementation of this recommendation will assist low income households in affording telephone service during this period of rapid change in the telephone industry.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Margot Bester or Claudia Pabo, Common Carrier Bureau at (202) 632-6363.

SUPPLEMENTARY INFORMATION:

Recommended Decision and Order

In the Matter of MTS and WATS Market Structure; CC Docket No. 78-72, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board; CC Docket No. 80-286.

Adopted: December 2, 1985.

Released: December 9, 1985.

By the Federal-State Joint Board.

I. Introduction

A. Summary

1. The Federal-State Joint Board hereby presents its recommendations concerning the adoption of broader lifeline assistance measures. The existing record demonstrates that telephone subscribership levels have

remained stable in recent years, and should remain stable or increase in the future, although telephone subscribership is substantially below average in the lowest income groups. In order to assist low income households in affording telephone service during this period of rapid change in the telephone industry, we recommend that the Commission establish a federal lifeline assistance program. We believe that our goals in this regard can best be accomplished by making federal assistance available to supplement the benefits provided under state approved local lifeline service offerings which meet certain guidelines. We recommend that the federal assistance be provided through a waiver of the full subscriber line charge up to the amount of the state assistance provided for qualifying households. This matching assistance would be available for highly targeted programs which provide for verification of eligibility. The state contribution could take the form of reduced local telephone service rates, reduced connection charges or deposit requirements for a single telephone line to the principal residence of eligible households. No restrictions would be imposed on the source of funding for the intrastate assistance. The federal assistance would be funded through the interstate carrier common line charge. We recommend that this program be re-evaluated in conjunction with the Joint Board's re-examination of subscriber line charges as a method of recovering non-traffic sensitive (NTS) costs scheduled to begin in late 1986.

B. Background

2. The preservation of universal service has been a basic goal of the Joint Board and the Commission throughout the proceedings concerning the allocation and recovery of non-traffic sensitive (NTS) local exchange costs. The statutory basis for this goal is found in Section 1 of the Communications Act of 1934 which states that the Commission was created:

[f]or the purpose of regulating interstate and foreign commerce in communications by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication. . . .⁴

In the *Third Report and Order* in the *MTS and WATS Market Structure* proceeding,² the Commission stated that the goal of preserving universal service required that it "[avoid] actions that would cause a significant number of local exchange service subscribers to cancel [telephone] service."³ At that time, the Commission also stated that it would consider requests by local exchange carriers for waiver of the mandatory flat subscriber line charge in the case of low income households which might otherwise be unable to afford telephone service.⁴

3. The issue of a federal lifeline telephone assistance mechanism was again raised in the Commission's *Second Reconsideration Order* in the *MTS and WATS Market Structure* proceeding.⁵ In that decision, the Commission found that the existing record did not contain enough information to allow the development of a federal assistance program for low income households, but stated that it would conduct further proceedings on this matter. The Commission subsequently requested comments concerning a subscriber line charge exemption or other assistance measures to help low income households afford telephone service, and asked the Joint Board to prepare recommendations regarding this issue.⁶

4. The Joint Board adopted recommendations concerning assistance measures for low income households on November 15, 1984.⁷ Although we concluded that implementation of limited subscriber line charges would not undermine universal service, we acknowledged the concern of some parties that implementation of subscriber line charges in conjunction with the general upward pressure on local rates could undermine universal telephone service. As a result, the Joint

Board recommended a two-phase approach for dealing with this issue. First, we recommended that the Commission implement a mechanism providing the equivalent of a waiver of the subscriber line charge for low income households.⁸ Second, we recommended an expedited study of broader measures to assist low income households in affording telephone service. The Commission adopted the Joint Board recommendations in its December 19, 1984 *Decision and Order*⁹ in this proceeding, and directed the Joint Board to prepare recommendations concerning broader lifeline assistance measures on an expedited basis.

II. Summary of Comments

A. Initial Comments

5. We released an *Order Inviting Comments*¹⁰ on March 29, 1985, requesting comments on the following issues: (1) The proper state and federal roles in implementing assistance measures for low income households; (2) the criteria for determining eligibility for assistance; (3) the type of lifeline telephone service which should be made available to eligible subscribers; and (4) the mechanism for funding these assistance measures.¹¹

6. In its comments, the American Telephone and Telegraph Company (AT&T) states that any assistance program should involve coordinated federal and state efforts. It asserts that such programs should be limited to households eligible for state welfare payments, and cover only basic telephone service at the household's principal residence. AT&T states that such assistance programs should be funded from general tax revenues, and opposes funding lifeline programs through an increase in the carrier common line charge. Satellite Business System, Inc. (SBS) argues that the states should be permitted to implement lifeline assistance programs if they wish.

² CC Docket No. 78-72, 83 FCC 2d 341 (1983).

³ *Id.* at 260.

⁴ In the *First Reconsideration Order* reaffirming the subscriber line charge concept, the Commission noted that it had not received any petitions for waiver. See CC Docket No. 78-72, 48 FR 42984 at 42987 (September 21, 1983). Requests for waivers of the subscriber line charge were subsequently filed by the New York Telephone Company and the Pacific Telephone and Telegraph Company. *Second Reconsideration Order*, CC Docket No. 78-72, FR 7810 at 7812 (March 2, 1984).

⁵ CC Docket No. 78-72, 49 FR 7010 (March 2, 1984).

⁶ *Further Notice of Proposed Rulemaking, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-280, 49 FR 18318 (April 20, 1984). The *Further Notice* requested comments on the type of assistance needed by low income households and how such a program should be funded.

⁷ *Recommended Decision and Order*, CC Docket Nos. 78-72 and 80-280, 49 FR 48325 (December 12, 1984).

⁸ We recommended that this be accomplished through an optional program for a 50 percent reduction in the subscriber line charge for customers who satisfy a state determined means test which is subject to verification. The resulting shortfall in subscriber line charge revenues would be recovered through an increase in the nationwide average carrier common line charge. States wishing to take advantage of this assistance mechanism would be required to implement an equal monetary reduction in the local exchange rate for qualifying subscribers to be funded from intrastate sources.

⁹ CC Docket Nos. 78-72 and 80-280, 50 FR 999 (January 8, 1985).

¹⁰ CC Docket Nos. 78-72 and 80-280, 50 FR 14727 (April 15, 1985).

¹¹ Comments in response to this *Order* were filed on April 26, 1985. Replies were filed on May 17, 1985.

⁴ 47 U.S.C. 151 (1934).

SBS also states that eligibility for lifeline service should be limited to basic local exchange service for those eligible for state welfare payments. It argues that such assistance should be funded from general tax revenues. US Telecom Inc. (US Telecom) argues that the Communications Act requires the Commission to ensure the availability of telephone service. It supports keying eligibility to the national poverty level income adjusted to reflect regional cost of living differentials. US Telecom also maintains that flat rate telephone service should be included in assistance programs only where local measured service is not available. It states that funding for such assistance programs should come from both federal and state sources, but opposes funding this assistance through an increase in the state or interstate carrier common line charge.

7. The Bell Operating Companies (BOCs) argue that the states should have primary responsibility for developing and administering lifeline telephone assistance programs. They contend that the states are in the best position to evaluate local needs and tailor assistance programs to fit them. The BOCs, with the exception of Pacific Bell Telephone Company (Pacific), assert that such assistance programs should be funded from general tax revenues, not an increase in the carrier common line charge. Pacific supported funding telephone assistance through a tax on intrastate interLATA toll services. The other BOCs, however, expressed concern that funding assistance measures through a surcharge on the carrier common line charge would increase the incentives for uneconomic bypass.

8. The BOCs differed somewhat in their views concerning eligibility criteria and the type of lifeline service which should be made available. The Ameritech Operating Companies (Ameritech) state that the development of eligibility criteria should be left to the states, although they support use of existing welfare criteria. Ameritech argues that it is unnecessary to limit the service options available to lifeline subscribers. Bell Atlantic Corporation (Bell Atlantic) states that existing state welfare agencies should certify eligibility. It argues that lifeline service should consist of basic dial tone. BellSouth Corporation (BellSouth) states that eligibility criteria should be based on the standards for existing welfare programs. In addition to reduced monthly rates, it supports provisions for waiver of service connection charges and deposit requirements once every

twelve months. New York Telephone Company and New England Telephone Company (NYNEX) argue that the states should determine eligibility for lifeline service. It states that lifeline assistance should apply only to charges for residential customer access lines including installation and service connection charges as well as the monthly charge. NYNEX argues that toll service, local usage, and custom calling features should be excluded.

9. Mountain States Telephone, Northwestern Bell and Pacific Northwest Bell (US West) state that eligibility for lifeline assistance measures should be based on income. It states that lifeline service offerings could include reduced local exchange rates for measured or flat rate service. Pacific states that eligibility criteria should be established by the states, and emphasizes that any federal action should avoid interfering with existing programs. Pacific states that telephone assistance programs should include reduced rate local exchange service with subsidies for installation and a telephone instrument. Southwestern Bell Telephone Company (Southwestern) urges the use of existing federal and state assistance program eligibility criteria for lifeline assistance programs. It states that lifeline service should include a discounted basic dial tone connection, but believes that a range of usage options should be made available.

10. The independent telephone companies, with the exception of the Puerto Rico Telephone Company, argue that the states should have primary responsibility for developing and administering lifeline assistance programs. They express a variety of views concerning eligibility standards, the type of lifeline service to be offered and funding, although there is strong opposition to funding lifeline assistance through telephone industry revenues. GTE Corporation (GTE) argues that lifeline programs should be limited to local measured service or supplemental payments under existing entitlement programs. It contends that no Commission action should be taken until actual experience demonstrates a need for lifeline service. GTE argues that any such program should be funded from general tax revenues or credits against exchange carrier tax liabilities. It maintains that the telephone industry should not be required to fund social welfare programs, such as lifeline telephone service. United Telephone Systems, Inc. (United) suggests basing eligibility on the criteria for existing social welfare programs. It states that lifeline assistance should not be limited

to a particular type of local service, and urges funding of the revenue shortfall through tax revenues or reductions in the telephone company tax liability. United does not support a funding mechanism that would require telephone industry subsidies.

11. Southern New England Telephone Company (SNET) recommends using eligibility standards similar to those for other public assistance programs. It states that lifeline assistance should consist of a fixed dollar rate discount for eligible subscribers regardless of the class of exchange service chosen. SNET also argues that lifeline programs should be funded from broadly based state revenue sources, not telephone company operating revenues. Cincinnati Bell Telephone Company also supports use of eligibility criteria for existing public assistance programs. It believes that lifeline service should not include more than current budget service offerings. Central Telephone Company (Centel) argues that development of eligibility criteria should be left to the states. It also argues that local measured service should be used as a low cost alternative to lifeline service. Centel maintains that lifeline programs should be funded from general tax revenues like other social welfare programs. Continental Telecom, Inc. (Contel) also argues that the states should determine the eligibility criteria, the service options included, and should be the source of funding for these programs. Centel is concerned that federally mandated guidelines would result in a uniform response to a problem which requires diverse solutions geared to local conditions. The Puerto Rico Telephone Company (PRTC) argues that expanding service to areas with telephone penetration rates that are below the national average should be the goal of assistance programs. PRTC also states that the funds used to pay for lifeline assistance should be generated on a nationwide basis.

12. The United States Telephone Association (USTA) maintains that the states should have primary responsibility for lifeline assistance programs, with funding generated from the widest possible base, not other telephone users. The Rural Telephone Coalition (RTC) argues that lifeline assistance is a national responsibility and should be funded from general tax revenues, not telephone company revenues. The Oregon Independent Telephone Association states that lifeline assistance is the responsibility of the states and should be funded by subsidies within local telephone company operations.

13. The Alabama Public Service Commission (Alabama) states that eligibility for lifeline assistance should be based on income. It supports assistance for basic local service and toll service as well as a portion of service connection charges with incentives to prevent abuse and maximize benefits. Alabama argues that such assistance measures should be funded by both the federal and state jurisdictions, with the federal share recovered through a tapered carrier common line charge. The California Public Utilities Commission and the State of California (California) assert that a federal lifeline plan should assist the states in developing telephone assistance measures without interfering with ongoing state programs. California states that eligibility for assistance should be based on household income with lifeline rates set at one-half of the existing local exchange rate. California also recommends including a waiver of installation charges once a year and elimination of deposit requirements. California argues that federal funding should be derived from a tax on toll service.

14. The Public Service Commission of the District of Columbia (D.C.) states that funding for lifeline assistance programs should come from general tax revenues. The Florida Public Service Commission (Florida) asserts that a federally mandated lifeline program would not ensure universal telephone service. Instead, Florida recommends that the local exchange companies be allowed to design a variety of service options with different rate levels.

15. The Illinois State Commerce Commission supports state developed and funded lifeline programs. The New Jersey Board of Public Utilities (New Jersey) opposes a mandatory federally administered lifeline program, stating that a national solution to a local problem is unwarranted. However, it supports the development of optional state programs where deemed necessary by state regulators. New Jersey strongly opposes a surcharge on interstate telephone traffic to fund lifeline service. The New York State Department of Public Service (New York) maintains that the states should determine the type of lifeline service to be offered, although it supports federal funding for half of the costs involved. New York recommends generating the federal contribution from interstate toll services. The North Carolina Utilities Commission (North Carolina) asserts that telephone assistance programs should be dealt with at the state level.

16. The Oregon Public Utility Commissioner (Oregon) asserts that the states should have primary responsibility for lifeline assistance programs. Oregon suggests that funding could be provided from general tax revenues, excise taxes on local telephone service, taxes on intrastate toll carriers, or voluntary contributions by organizations that place a high value on universal service. The Vermont Public Service Board (Vermont) maintains that the states are in a better position than the federal government to develop lifeline plans. It argues that the bulk of the funding for lifeline assistance should be derived from interstate services because intrastate toll services cannot provide a major financial contribution due to the threat of bypass, arbitrage and customer comparisons with interstate rates. Vermont recommends that initial service connection fees be included in assistance programs. Representative Bob Wise of West Virginia asserts that the federal government should play a very limited role in the development of lifeline plans.

17. The Colorado Public Utilities Commission (Colorado) strongly supports a federally mandated lifeline assistance plan. Colorado argues that the FCC is obligated to aid the states in efforts to preserve universal service because it controls the allocation of non-traffic sensitive (NTS) costs. Colorado states that assistance should be limited to households with incomes at or below 150 percent of the federally established poverty level income. It argues that assistance should be provided through a fifty percent discount on the charge for basic flat rate service, with funding from state and federal general tax revenues. If this approach to funding is not viable, Colorado suggests generating the federal contribution through an increase in the interstate carrier common line charge. The Commonwealth of Puerto Rico (Puerto Rico) supported a federally mandated lifeline plan funded from interstate services.

18. The Ad Hoc Telecommunications Users Committee (Ad Hoc) argues that the ultimate responsibility for designing and administering lifeline programs lies with the states, although the FCC should determine the amount and type of funding from interstate sources. Ad Hoc states that funding should be provided from general tax revenues or a surcharge on the subscriber line charge. The Associated Telephone Answering Exchanges, Inc. states that funding for any assistance program should be paid by all telephone subscribers. It asserts that a lifeline program should offer the

same services provided to customers paying the full rate with a limitation on long distance calling. The Communication Workers of America (CWA) urges establishment of a lifeline plan modeled after California's Moore Act and Congressional legislative proposals. CWA supports measured service as a lifeline offering in areas where it is available. It suggests that funding be provided by a surcharge on the intrastate toll services of all interexchange carriers, an adjustment to local service rates or a combination of the two.

19. The Consumer Federation of America and the U.S. Public Interest Research Group (CFA) strongly support a federally mandated lifeline program for low income households. CFA argues that the need for lifeline service should not be determined solely on the basis of a decline in subscribership levels because many low income households will give up other essential goods and services before discontinuing telephone service. It argues that the responsibility for funding lifeline service should be split between the state and federal jurisdictions with federal lifeline funding provided through an increase in the interstate carrier common line charge. The Office of Consumers' Counsel, State of Ohio (OCCO) contends that the Commission should fund a full waiver of the subscriber line charge from interstate carrier revenues.¹²

B. Further Comments

20. After reviewing the comments and replies filed in response to the *Order Inviting Comments*, the Joint Board concluded that additional information was necessary for resolution of this issue. As a result, we adopted an *Order Inviting Further Comments* on July 26, 1985,¹³ requesting further comments on three basic issues: (1) The types of service offerings and assistance programs currently available to low income households; (2) telephone subscription levels and toll usage by low income households; and (3) the need for and/or appropriate level of federal funding for such assistance programs.

21. In its further comments, AT&T urges the Joint Board to recommend guidelines to assist the states in implementing narrowly targeted, state funded local lifeline assistance plans. AT&T supports state funding for these programs and reiterates its opposition to

¹² A more detailed summary of these comments was attached to the Joint Board's *Order Inviting Further Comments* on these issues. CC Docket Nos. 78-72 and 80-280, 50 FR 31738 (August 6, 1985).

¹³ CC Docket Nos. 78-72 and 80-280, 50 FR 31740 (August 6, 1985).

funding this assistance through surcharges on toll services or carrier access charges because of the threat of bypass.

22. Ameritech states that it has found no evidence to indicate that universal service is in danger. As a result, it does not believe that there is an immediate need for lifeline service offerings in addition to the low priced local exchange service options already available. Ameritech also opposes any funding mechanism using telephone industry revenues. Bell Atlantic argues that the best strategy for maintaining universal service is an economically sound rate structure for all telephone services. Bell Atlantic supports development of state funded lifeline plans, but maintains that any federal funds should be distributed based on subscriber need, not the relative rate level for basic telephone service. Bell Atlantic opposes funding lifeline assistance through the carrier common line pool. BellSouth argues that a federally mandated lifeline program is not necessary at this time, but states that if such programs are developed, they should be funded solely through state tax revenues, not from increased telecommunications service charges.

23. NYNEX asserts that telephone subscription levels have risen even among the lowest income groups despite increases in local telephone rates. It maintains that any lifeline assistance programs should be funded through general tax revenues, not telephone industry revenues. Southwestern Bell reiterates its position that lifeline plans should be administered by the states with federal involvement limited to the provision of a reduced interstate subscriber line charge for eligible subscribers. US West states that the data derived from its internal monitoring programs has not identified any decline in subscribership levels due to rate increases in its region. All of the BOCs also stated that they offer low priced budget service options in most of the states they serve.

24. Cincinnati Bell states that it sees no need for lifeline assistance since the subscription rate in its territory is 94.5 percent. SNET does not perceive a need for lifeline service since Connecticut, which constitutes the majority of its service territory, has a 97 percent telephone subscription rate. SNET also indicates that it offers several basic exchange service options with rates dependent on the amount and type of calling. SNET supports funding assistance through an excise tax on telephone service. Contel asserts that lifeline programs should be

administered by state regulatory agencies which can best determine local needs and target assistance. The Puerto Rico Telephone Company supports a federally mandated lifeline program funded from the broadest possible nationwide base. The Anchorage Telephone Utility (ATU) argues that a federally mandated lifeline program is unnecessary unless current telephone penetration rates drop significantly. It argues that lifeline programs threaten universal service by forcing local exchange companies to adopt subsidy mechanisms which could lead to bypass. ATU opposes funding lifeline assistance through telephone industry revenues. USTA opposes funding lifeline programs through the charges for interstate telephone services. It also states that 93.9 percent of U.S. households have telephone service, with a 80.53 percent penetration rate for those below the poverty line.

25. Vermont asserts that funding for lifeline service should be derived from general tax revenues wherever possible, but suggests interstate toll revenues as an alternative source of funding. The Iowa State Commerce Commission (Iowa) does not support a federal lifeline program and maintains that the 1983-84 data which it has compiled indicates that telephone subscription levels in Iowa have remained the same despite increases in local exchange rates and a decrease in population. D.C. states that its local exchange carrier currently offers an economy local exchange service, and notes that it has implemented an experimental lifeline assistance program for eligible senior citizens. D.C. opposes funding lifeline plans through interstate toll charges. New York reiterates its belief that lifeline funding should be derived from a uniform nationwide surcharge on interstate toll rates. The Virginia State Corporation Commission (Virginia) argues that basic telephone service is already available to Virginia residents at affordable rates. It states that lifeline telephone service is a social issue which should be addressed by state legislatures or Congress, not the Commission.

26. The American Association of Retired Persons (AARP) supports implementation of a federally mandated lifeline program. The AARP emphasizes that the elderly rely heavily on telephone service, and states that 75 percent of those over 65 years old have experienced increases in their local telephone rates, and that 20 percent of those individuals report cutting back on telephone use in some way. The Consumer Federation of America (CFA)

states that there is an immediate need for implementation of a federally mandated lifeline program to be funded through interstate telephone industry revenues.

III. Discussion

A. Introduction

27. Telephone subscribership levels have remained stable in recent years, and should remain stable or increase in the future. While local telephone rates will probably continue to increase gradually, there is no basis for anticipating increases of sufficient magnitude to undermine universal telephone service. However, telephone subscribership levels are substantially below average in the lowest income groups. As a result, we recommend that the Commission adopt assistance measures for low income households in order to assist them in affording telephone service during this period of rapid change in the telephone industry.

B. Universal Telephone Service

28. The April 1980 Census showed that 92.9 percent of American households subscribed to telephone service. Census Bureau data for April 1983, prior to the AT&T divestiture and the implementation of subscriber line charges, showed that 91.9 percent of households subscribed to telephone service. The Census Bureau has conducted a survey of 58,000 households in March, July and November of each year since November 1983 to determine the percentage of households with telephone service. This data shows that telephone subscribership levels have remained stable since November 1983, although there is a slight seasonal variation, with subscribership levels generally lower in the fall and higher in the spring. A table showing national subscribership levels is set out below:

TELEPHONE SUBSCRIBERSHIP IN THE UNITED STATES¹
(in percent)

	1983	1984	1985
March		91.8	91.8
July		91.6	91.8
November	91.4	91.4	

¹ Letter to Mr. Edward J. Mikal, Managing Director, FCC from Kenneth A. Riccio, Chief, Current Population Surveys Branch, Demographic Surveys Division, Bureau of the Census, at Table 1, dated October 3, 1985. This data shows the percentage of households with a telephone in their home. The percentage of households which report that telephone service is available to them is somewhat higher.

Due to the seasonal variation, comparisons should be based on data for the same month each year.

29. Recent Census Bureau data shows that telephone subscribership levels

among low income households have also remained relatively stable as the following table concerning telephone subscribership among the unemployed demonstrates:

TELEPHONE SUBSCRIBERSHIP AMONG UNEMPLOYED PERSONS¹

(In percent)

	1983	1984	1985
March		82.0	82.9
July		81.2	83.6
November	82.5	81.8	

¹ As at Table 2. This data shows the percentage of households with a telephone in their home. The percentage of households which report that telephone service is available to them is somewhat higher.

(In percent)

	1983	1984	1985
Telephone Subscribership—Households With Less Than \$5,000 in Annual Income ¹			
March		71.4	71.1
July		71.8	72.0
November	71.7	70.3	

Telephone Subscribership—Households with \$5,000-\$7,499 in Annual Income ¹			
March		82.6	82.5
July		82.6	83.2
November	82.7	83.7	

Telephone Subscribership—Households With \$7,500-\$9,999 in Annual Income ¹			
March		85.8	86.3
July		86.5	86.9
November	88.2	87.0	

Telephone Subscribership—Households With \$10,000-\$12,499 in Annual Income ¹			
March		89.0	89.5
July		89.7	89.7
November	89.7	89.4	

¹ As at Table 4. The data on this and the following three tables shows the percentage of households with a telephone in their home. The percentage of households which report that telephone service is available to them is somewhat higher.

¹ As
² As
³ As

As these charts demonstrate, telephone subscribership levels have not changed significantly, even among the groups that would be most affected by rate increases. A comparison of the data for July 1984 and 1985 even shows an increase in subscribership levels for all but one group, although the changes are relatively small and are probably not statistically significant.

30. The comments in this proceeding also confirmed this conclusion. Although certain parties expressed concern about declines in subscribership, none of the telephone companies stated that they had experienced such declines. In fact, a number of the local telephone companies participating in this proceeding stated that they had implemented significant local rate

increases without declines in subscribership levels.

31. Despite the current stability in telephone subscribership levels, certain parties argue that local rates will increase dramatically in the next few years, seriously threatening universal telephone service. The information currently available does not support this contention. The Commission has issued two reports concerning the effect of federal decisions on local rates and the availability of local service. The initial *Michigan Report* was issued in December, 1983.¹⁴ It found that existing Commission policies would not threaten the availability of universal service. Among other things, the report concluded that: (1) In almost all cases revenue requests by exchange telephone companies vastly exceeded actual revenue authorizations by state commissions; (2) the bulk of the current revenue requests by exchange telephone companies are linked to factors other than federal decisions; (3) federal decisions will not cause sharply higher minimum charges for obtaining residential telephone service; and (4) federal decisions will not cause residential subscribers to discontinue service. The Common Carrier Bureau subsequently requested comments on the initial report, and issued a second report based on these filings, referred to

¹⁴ *Order, Petition by the State of Michigan Concerning the Effect of Certain Federal Decisions on Local Telephone Service ("Michigan Report")*, 96 FCC 2d 941 (1983). The report was issued in response to a petition filed by the State of Michigan, on February 24, 1983, which asked the FCC to investigate the effects of decisions in the following five areas on local rates and the availability of local service: (1) Depreciation; (2) interstate access charges; (3) expensing station connections and amortizing previously capitalized investment; (4) the CPE phase out; and (5) divestiture of AT&T. At that time, the Commission had adopted a plan for implementation of a monthly minimum subscriber line charge of \$2.00 per loop for residential subscribers and \$4.00 per loop for business subscribers, with additional usage charges up to a certain maximum level. Under this approach, most interstate non-traffic sensitive (NTS) costs would have been shifted to end users over a seven year transition period. *Third Report and Order*, CC Docket No. 78-72, 48 FR 10319 (March 11, 1983). The Commission subsequently referred the issues related to subscriber line charges as a means of recovering NTS costs to the Joint Board in this proceeding. *Further Notice of Proposed Rulemaking*, CC Docket Nos. 78-72 and 80-286, 49 FR 18318 (April 30, 1984). The Joint Board subsequently recommended the implementation of a \$1.00 monthly subscriber line charge for residential and single line business subscribers, effective June 1, 1985, with an increase to \$2.00 per month June 1, 1986. The Commission adopted these recommendations. *Decision and Order*, CC Docket No. 78-72 and 80-286, 50 Fed. Reg. 939 (January 8, 1985). Since the filing of the Michigan Petition, the Commission has also taken a number of other steps, based on Joint Board recommendations, to ease the transition to a more cost based system of allocating and recovering costs.

as the *Michigan II Report*. In January, 1985.¹⁵ The *Michigan II Report* affirmed the conclusions reached by the Commission in the *Michigan Report*. At that time, the Commission also stated that it would monitor subscribership levels and would work closely with the Joint Board and the states to ensure the continued preservation of universal service.

32. The conclusions contained in the *Michigan I and II Reports* have been confirmed by the actual pattern of rate increase requests filed by the local telephone companies. In fact, the amount of rate increase requests currently pending is significantly lower than in 1983. There were approximately \$6.9 billion in state rate increase requests before the state commissions by the end of 1983.¹⁶ At present, only about \$2.6 billion in state rate increases are under consideration nationwide, and rate cases filed by Pacific Bell in California and New York Telephone account for approximately half of this amount.¹⁷ Furthermore, the state commissions have granted only about half of the increases requested. For example, in 1984, \$7.3 billion in revenue increases requested by local telephone companies were acted on in state rate cases, but only 53 percent of the amounts requested or \$3.9 billion in rate increases were actually granted nationwide. In the second quarter of 1985, only \$580 million in rate increases were acted on in state rate cases and only 51 percent of the amounts requested were granted by state commissions nationwide. In addition, the state commissions have generally chosen to increase rates for specialized business services, intrastate toll and enhanced services before increasing rates for basic residential local exchange service. Local telephone flat rate monthly service charges increased by 8.9 percent from January 1982 to January 1983. The increase was 4.7 percent for the period January 1983 to January 1984, with an increase of 7.6 percent from January 1984 to January 1985.¹⁸ The charges for all local service, including installation, inside wiring, equipment and taxes as well as local service charges increased 13.4 percent from January 1982 to January 1983, 9.7 percent from January 1983 to January

¹⁵ *Further Report on the Effects of Federal Decisions on Universal Service*, FCC No. 84-426, released January 9, 1985.

¹⁶ *Summary of State Telephone Rate Cases* (released September 30, 1985).

¹⁷ *Id.*

¹⁸ U.S. Department of Labor, Bureau of Labor Statistics, Producer Price Index, Series 4811-111, Local Service, Residential.

1984, and 8.3 percent from January 1984 to January 1985.¹⁹

33. Despite the stability in telephone subscribership levels demonstrated by the Census data and the fact that there is no reason to expect dramatic increases in local rates, subscribership levels for the unemployed and those in the lowest income categories are significantly below the national average. In order to promote telephone subscribership among low income households during this period of rapid change in the telephone industry, we recommend that the Commission adopt broader lifeline assistance measures.

34. We believe that this can best be accomplished by provisions for federal assistance to supplement the benefits provided under state or local telephone company lifeline plans which meet certain minimum federal guidelines. We are confident that state regulators working in conjunction with the local companies will be able to identify local subscriber needs and respond to them in an appropriate manner. In light of this, and the current data concerning telephone subscribership levels, a mandatory federal program is not required.²⁰ Although the present record leads us to conclude that universal telephone service is not threatened, we would be deeply concerned should the states fail to respond appropriately to any developments which caused a decline in subscribership levels.

35. Accordingly, the Joint Board recommends that the Commission match state assistance for low income households under qualifying lifeline programs up to the amount of the subscriber line charge.²¹ This would be accomplished through a waiver of the subscriber line charge (or the matching portion of it) for eligible households, and funded through an increase in the interstate carrier common line charge. The waiver would be available to participating subscribers in states or individual telephone company service

areas having highly targeted local lifeline programs. For example, programs directed to individuals who are eligible to receive Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC) would be included. Of course, we encourage those states which believe it is appropriate, to adopt additional lifeline measures as well. We also recommend limiting the qualifying state plans to those in which eligibility is subject to verification. If states or telephone companies choose to implement assistance programs that do not meet these criteria, their subscribers would not be eligible for supplemental federal assistance. Under our recommendation, federal assistance would be available for a single telephone line at the principal residence of eligible households. We recommend that state assistance for basic local telephone service, connection charges and customer deposit requirements be included in determining the level of the state contribution to be matched by federal assistance. The state contribution may be generated from any intrastate source. We do not believe that any showing of rapid or imminent declines in telephone subscribership levels should be required as a precondition to receiving federal assistance.

36. We also recommend that local companies and states seeking to obtain supplemental federal benefits be required to submit information to the Commission demonstrating that their plan meets these criteria. We recommend that the supplemental assistance be made available immediately upon certification that the plan meets the federal standards described above. In order to facilitate action on these filings, we recommend that the Commission delegate authority to act on such plans to the Chief, Common Carrier Bureau.²² We recommend that federal supplemental assistance for eligible lifeline plans be made available as soon as the Commission certification is issued and the necessary tariff revisions become effective. The amounts involved at this initial stage in the program will be minimal, and we believe that they can be covered through the existing carrier common line charge without reducing the carriers' access earnings below the authorized level. The carrier common line charge should be revised effective

June 1, 1986 to reflect lifeline funding requirements.

37. In addition, we recommend that the Joint Board review the effectiveness of this plan in conjunction with its review of subscriber line charges which is scheduled to begin in late 1986. To facilitate this, we recommend that the Commission require participating local companies to monitor the effectiveness of their assistance programs and provide the Joint Board and the Commission with annual reports. These reports should include a description of the assistance measures, the cost of the program, information on the number of households taking advantage of the assistance program, including information on the number of existing subscribers who switch to lifeline service from other service offerings and the number of new subscribers using the service. We are also asking that these reports contain any available information concerning the effect of the plan on subscribership levels among low income groups.

38. We believe that this approach will provide state regulators with a strong incentive to develop lifeline assistance programs, while ensuring that they are able to respond appropriately to local conditions. Although we strongly encourage local telephone companies and state regulators to participate in this program, we do not believe that the existing record warrants implementation of a mandatory federal program. Furthermore, we have every reason to believe that state regulators and the local companies will respond in a responsible manner to ensure that universal service is maintained.

39. Providing the federal assistance through waiver of the full subscriber line charge will ensure an adequate level of assistance based on existing local rate levels. Based on the present residential and single line business subscriber line charge of \$1.00, this approach would provide a maximum of \$2.00 per month in assistance for participating subscribers. When the subscriber line charge increases to \$2.00 on June 1, 1986, this approach will generate a maximum of \$4.00 per month in assistance. We believe that these amounts are reasonable in light of existing local rate levels, and the targeting and verification measures which we are recommending will ensure that the benefits of this program are directed to the groups which currently have the lowest telephone subscribership levels, and are most in need of assistance.

40. Re-evaluation of this approach in conjunction with the Joint Board's re-examination of subscriber line charges

¹⁹ The consumer price index, also maintained by the Bureau of Labor Statistics, contains a subindex of local telephone charges. This index, unlike the producer price index, includes charges for installation, wiring, equipment and taxes.

²⁰ At present, a number of states have constitutional, statutory or judicially imposed prohibitions on implementation of telephone assistance programs for low income households. We strongly urge these states to eliminate any such restrictions to ensure that state regulators and the local telephone companies are able to respond appropriately to any circumstances which may warrant implementation of a state lifeline program.

²¹ This would be in addition to the existing provisions which allow the equivalent of a subscriber line charge waiver for low income households. States or local telephone companies which wish to continue to participate in this more limited program may do so.

²² We believe that the Joint Board should prepare a recommendation in any case where a party seeks Commission review of a Bureau Chief decision not to approve supplemental assistance.

to begin in late 1980 will allow us to study the effectiveness of this program and recommend adjustments if experience indicates that they are necessary.

IV Ordering Clauses

41. Accordingly, the Joint Board recommends, that the Commission adopt the recommendations set out above concerning assistance measures to aid low income households in affording telephone service and the revisions to Part 69 of the Commission's Rules set out in Attachment A.²³

Federal Communications Commission.
William J. Tricarico,
Secretary.

PART 69—[AMENDED]

Attachment A

Recommended Amendments to Part 69 of the Commission's Rules

1. Amend § 69.203(d) by substituting the phrase "paragraphs (f) and (g)" for "paragraph (f)".

2. Amend § 69.203 by adding the following paragraph (g):

(g)(1) The End User Common Line charge for residential subscribers shall be reduced to the extent of the state assistance as calculated in (g)(2), or waived in full if the state assistance equals or exceeds the residential End User Common Line Charge under it. Circumstances described below. In order to qualify for this waiver, the subscriber must be eligible for and receive assistance or benefits provided pursuant to a narrowly targeted telephone lifeline assistance plan requiring verification of eligibility, implemented by the state or local telephone company. A state or local telephone company wishing to implement this End User Common Line reduction or waiver for its subscribers shall file information with the Commission Secretary demonstrating that its plan meets the criteria set out in this section, and showing the amount of state assistance per subscriber as described in (g)(2). The reduction or waiver of the End User Common Line Charge shall be available as soon as the Commission certifies that the state or local telephone plan satisfies the criteria set out in this subsection, and the relevant tariff provisions become effective.

(2)(i) The State assistance per subscriber shall be equal to the difference between the charges to be paid by participating subscribers and those to be paid by other subscribers for comparable monthly local exchange service, service connections and customer deposits, except that benefits or assistance for connection charges and deposit requirements may only be counted once annually. In order to be included in

calculating the state assistance, such benefits must be for a single telephone line to the household's principal residence.

(2)(ii) The monthly state assistance per participating subscriber shall be calculated by adding the amounts calculated in paragraphs (A) and (B).

(A) The amount of the monthly state assistance per participating subscriber for local exchange service charges shall be calculated by dividing the annual difference between the charges paid by all participating subscribers for local exchange service and the amount which would have been charged to non-qualifying subscribers for comparable service by twelve times the number of subscribers participating in the state assistance program. Estimates may be used when historic data is not available.

(B) The amount of the monthly state assistance for service connections and customer deposits per participating subscriber shall be calculated by determining the annual amount of the reduction in these charges for participating subscribers each year, and dividing this amount by twelve times the number of participating subscribers. Estimates may be used when historic data is not available.

[Doc. 85-30427 Filed 12-20-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-81; RM-4833]

TV Broadcast Station in San Clemente and Brawley, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF television Channel 26 to San Clemente, California, in response to a petition filed by Steve Newthor UHF television Channel *48 must be substituted for Channel *26 at Brawley, California in order to accommodate this assignment. The assignment of Channel 26 at San Clemente could provide a first television service to that community.

DATES: Comments must be filed on or before February 10, 1986, and reply comments on or before February 25, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1982, as amended; 47 U.S.C. 154,

303, Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (San Clemente and Brawley, California) MM Docket No. 85-81, RM-1983.

Adopted: March 13, 1985.

Released: December 19, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by Steve Mewthor ("petitioner"), proposing the assignment to UHF Television Channel 26 to San Clemente, California. The substitution of UHF Television Channel *48 for unused UHF Television Channel *26 in Brawley, California, would be required to allow the San Clemente assignment to be made in accordance with the mileage requirements. Petitioner submitted information in support of the proposal and expressed an interest in applying for the San Clemente channel, if assigned. The substitution and the assignment can be made in compliance with the minimum distance separation requirements and other technical criteria. However, since San Clemente and Brawley, California, are both located within 109 miles of the common U.S.-Mexican border, Mexican concurrence in the proposal is required.

2. San Clemente (population 27,325)¹ in Orange County (population 1,932,709) is located in southern California, approximately 80 kilometers (50 miles) southeast of Los Angeles.

3. Currently pending before the Commission is a rule making proceeding to institute further land mobile sharing arrangements within the UHF band (See General Docket 85-172, *Notice of Proposed Rule Making*, 50 FR 25587, published June 20, 1985). In that proceeding, specific sharing plans are mentioned which could affect this proposal. Thus, this proceeding will be considered in connection with General Docket 85-172.

PART 73—[AMENDED]

4. In view of the fact that San Clemente would receive its first local television service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the

¹ Population figures were taken from the 1980 U.S. Census.

²³This recommendation is made pursuant to sections 4(i) and (j), 5, 201, 302, 303, 205, 210, 221, 403 and 410 of the Communications Act, as amended, 47 U.S.C. 154 (i) and (j), 155, 201, 202, 203, 205, 210, 221, 403 and 410.

Return to F.R.E.H.

2777

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 87J-1

In the Matter of	)	
	)	
MTS and WATS Market Structure	)	CC Docket No. 78-72
	)	
Amendment of Part 67 of the	)	CC Docket No. 80-286
Commission's Rules and	)	
Establishment of a Joint Board	)	

RECOMMENDED DECISION AND ORDER

Adopted: March 12, 1987; Released: *March 31, 1987*

By the Federal-State Joint Board:

I. Introduction

1. Pursuant to the request of the Federal Communications Commission (Commission) in its Further Notice of Proposed Rulemaking (Further Notice),¹ we present our recommendations concerning the effects of the initial implementation of (1) subscriber line charges (or SLCs), (2) the federal lifeline assistance program, and (3) the current high cost assistance measures on the primary goals of the access charge proceeding and interexchange competition. Preserving universal service, promoting economic efficiency, eliminating service pricing discrimination, and deterring uneconomic bypass are the four longstanding goals identified in this proceeding.² We also present our recommendations for further action the Commission should take to achieve these goals. As a part of this proposal for further action, we also make certain recommendations regarding

1 Further Notice of Proposed Rulemaking, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, FCC 86-305 (released July 2, 1986); summarized at 51 Fed. Reg. 27,426 (1986).

2 In that proceeding, the Commission also stated that the access charge plan "represented an effort to preserve an opportunity for fair competition during a transition period in which [it] and the industry work to eliminate existing inequalities in interconnection options offered interexchange carriers." First Reconsideration Order, infra note 4, at para. 3.

modifications to the federal mandatory pool for carrier common line costs.

II. Overview of Recommendations

2. In supporting the implementation of limited subscriber line charges along with low income and high cost assistance measures two years ago, we recognized that our recommendations were a cautious step in addressing the problems inherent in the existing non-traffic sensitive (NTS) cost recovery mechanisms. We stated at that time that we would carefully evaluate the effects of these recommendations before proceeding with any further changes. The Commission's Further Notice initiated the reexamination of these three issues and asked for recommendations in a unified package for further action in these areas. As several outstanding petitions raised questions regarding possible modifications to the mandatory common line pooling system, the Commission also requested recommendations for future action in this related area.

3. In summary, we find that the interim measures we proposed and the Commission adopted in 1984 have furthered the four goals of this proceeding. We further find that certain additional steps are warranted at this time. In response to the Commission's request for proposed modifications to its current SLCs, we now recommend a permanent solution to the issue of the proper approach to the recovery of interstate NTS loop costs. We recommend that the Commission increase the current SLC to \$2.60 on June 1, 1987, \$3.20 on September 1, 1988, and \$3.50 on April 1, 1989, or the amount with which the local exchange carriers (or LECs) will recover their full interstate NTS loop costs, whichever is less.³ Prior to any increases in 1988 and 1989, we recommend that the members of the Joint Board and the Commission conduct a 90-day study and review of the impact of SLCs to date. We recommend that the Commission report to Congress and state regulators on the results of these reviews.

4. Maintaining SLCs at the \$3.50 cap will assure that interexchange carriers (or IXC's) continue to pay, on a nationwide basis, an appropriate portion of NTS loop costs. In conjunction with this action, we recommend that the Commission ensure that all of the cost savings resulting from this final implementation of SLCs be flowed through to customers in the form of lower interstate toll rates. We note that in this Order we do not recommend that the Commission adopt in toto any of the plans presented by parties in the record. Moreover, our recommendation that SLCs

3 We also recommend that the flat-rate charge for embedded Centrex lines be increased to \$4.00 on June 1, 1987, to \$5.00 on September 1, 1988, and to \$6.00 on April 1, 1989, or the multi-line business subscriber line charge, which recovers the LEC's full interstate NTS loop costs, whichever is less.

remain at \$3.50 is a significant change from the Commission's original plan to recover all interstate NTS costs from end users.

5. In addition, we recommend that the current federal lifeline assistance program continue as established and that the matching federal benefits increase with the recommended increase in SLCs. We also recommend that the Commission implement an additional lifeline program that will provide assistance to offset the costs of initial connection to the telephone network for low income households not presently on the network. Specifically, we recommend a two-part program: first, federal assistance sufficient to pay one-half of the charges, up to \$30.00, assessed for commencing service would be provided to qualifying subscribers; and second, where a local exchange carrier offers a deferred payment plan for service commencement charges and it does not assess the subscriber any interest, federal assistance will be available to that LEC to cover the interest costs on an amount up to \$200.00. We believe that this additional lifeline assistance program will provide an opportunity for those 5 million low income households currently without telephone service to obtain that service.

6. Further, we recommend that the Commission retarget the present formula for high cost assistance to direct more assistance to smaller and medium-sized LECs. Finally, we recommend that the Commission modify its current mandatory pooling requirements to implement a revised pooling system that retains the benefits of the present system while permitting LECs needed flexibility.

7. We believe that the overall effect of the recommendations presented herein achieves a proper balance among the goals of this proceeding. Our recommendation to increase SLCs will provide additional economic efficiency gains and further mitigate bypass. In addition, the limited increase in SLCs allows for the introduction of needed changes in the mandatory common line pool by reducing the disparity among carrier common line (or CCL) rates that could cause undue pressure to deaverage interstate toll rates. At the same time that we are recommending these measures to increase network efficiency, we propose changes in the high cost and lifeline assistance programs that will promote our universal service goal, by further protecting and benefiting small local high cost exchange carriers in maintaining reasonable rates, and assisting low income customers both in initially connecting to the network and in affording the SLCs and local service charges.

8. In order to ensure that our proposals achieve the desired results, we recommend an expanded monitoring effort by the Commission and the Joint Board. We recommend that this comprehensive monitoring proposal, which will involve frequent reports to Congress and state regulatory bodies, be described in detail in a Recommended Decision and Order to follow.

III. Background

9. In a series of reconsideration orders in CC Docket No. 78-72, the Commission reviewed and revised aspects of its access charge plan adopted in the Access Charge Order.⁴ An important aspect of the access charge plan provided that a major portion of the local loop costs allocated to the interstate jurisdiction would be recovered directly from telephone subscribers through monthly flat-rate charges,⁵ and found that such fixed charges would achieve the primary goals of the access charge proceeding.

10. In the Second Reconsideration Order, the Commission deferred the implementation of the residential and single-line business subscriber line charges until 1985 pending the completion of a number of proceedings.⁶

4 The Access Charge Order established a system of tariffed access charges through which local exchange carriers recover most of their costs assigned to the interstate jurisdiction through the separations process. Third Report and Order, MTS and WATS Market Structure, CC Docket No. 78-72, 93 FCC 2d 241 (1983) (hereinafter the Access Charge Order), modified on reconsideration, 97 FCC 2d 682 (1983) (hereinafter First Reconsideration Order), modified on reconsideration, 97 FCC 834 (1984) (hereinafter Second Reconsideration Order), aff'd in principal part and remanded in part, National Ass'n of Regulatory Utility Comm'rs v. FCC, 737 F.2d 1095 (D.C. Cir. 1984), cert. denied, 105 S. Ct. 1224, 1225 (1985), modified on further reconsideration, 99 FCC 2d 708 (1984), 101 FCC 2d 1222 (1985), aff'd on further reconsideration, 102 FCC 2d 849 (1985), petitions for review pending, People of California v. FCC, No. 84-1124 (D.C. Cir., petition filed April 2, 1984), and AT&T v. FCC, No. 84-1148 (D.C. Cir., petition filed April 16, 1984).

5 The Commission's initial decision provided that a substantial portion of fixed exchange plant costs that are assigned to interstate services should ultimately be recovered through flat-rate per line charges that are assessed upon end users. However, it also noted the possible disruptive effects of immediate flat-rate charges for the entire end user portion and therefore provided that in 1984, the first year of the plan, LECs would have to charge a minimum flat fee of \$2.00 per line per month for residential subscribers and \$4.00 per line per month for business subscribers. The plan further provided a five-year transition period for recovery of all interstate MTS loop costs from end users except for high cost assistance, customer premises equipment (CPE), and inside wire costs, which would be recovered from the pooled CCL charges. See generally

These proceedings included an examination of the SLCs and the transition mechanism for implementing them, possible assistance programs for low income households, and assistance measures for subscribers in high cost study areas.⁷ Pursuant to the decision to examine these issues, the Commission issued a Further Notice of Proposed Rulemaking in which it requested recommendations from this Federal-State Joint Board (Joint Board) regarding the implementation of residential and single-line business SLCs, possible exemptions or targeted assistance for low income subscribers, and more effective mechanisms to meet the needs of high cost telephone LECs for additional assistance.⁸

11. In November 1984, we issued our recommendations on the various issues referred to us.⁹ In our Recommended Decision, we formulated a three-part plan. First, we recommended that limited residential and single-line business SLCs of \$1.00 per line per month be implemented in June 1985, to be increased to \$2.00 per line per month in June 1986.¹⁰ Second, we recommended a two-phase program for assistance to

Access Charge Order note 4, at paras. 124-49.

6 In the First Reconsideration Order, the Commission provided that initial subscriber line charges of \$2.00 per month for residential and single-line customers would be implemented in 1984, with SLCs increasing to a \$3.00 cap in 1985 and a \$4.00 in 1986, where the charge would remain through 1989. The plan also established subscriber line charges for multi-line business customers equal to \$6.00 per month or the full interstate allocation of NTS loop costs for the study area involved. In the Second Reconsideration Order, however, the Commission did not defer the implementation of multi-line business SLCs, finding that the charges would not be so burdensome as to cause businesses to forego telephone service. These charges became effective in May 1984. See generally Recommended Decision, infra note 9, at paras. 5-12.

7 The other proceedings that the Commission initiated in the Second Reconsideration Order were: (1) a further inquiry into the effects on universal service of SLCs and federal decisions in general; and (2) a further inquiry to compile more detailed data on the extent and nature of bypass of the telephone network. All of the proceedings were completed in 1985. See Further Notice, supra note 1, at para. 3.

8 Further Notice of Proposed Rulemaking, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, 49 Fed. Reg. 18,316 (1984).

9 Recommended Decision and Order, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and

low income households. We established guidelines for a limited federal lifeline program, which provided a 50% reduction in the SLC for customers qualifying under a state-established lifeline program that was means-tested and subject to verification. We also recommended an expedited study to establish broader lifeline measures to assist low income households.¹¹ Third, we recommended retargeting the federal high cost assistance measures to provide additional assistance to telephone subscribers served by LECs with fewer than 50,000 access lines and those with particularly high NTS loop costs.¹² We recommended that SLCs remain at

80-286, 49 Fed. Reg. 48,325 (1984) (hereinafter Recommended Decision).

10 We also recommended that some flexibility be given to the LECs in the form of optional alternative tariff provisions to recover carrier common line costs in order to combat localized bypass problems. We further recommended that the Commission and Joint Board staff work closely with interested state public utility commissions to explore more comprehensive experimental tariffs for recovery of interstate NTS costs. See Recommended Decision, supra note 9, and Memorandum Opinion and Order, MTS and WATS Market Structure and Amendment to Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, 50 Fed. Reg. 13,028 (1985) (order establishing the procedures for filing optional alternative and experimental tariffs). Experimental tariffs were filed by the Florida Public Service Commission (Florida) on November 9, 1984, the Rochester Telephone Company (Rochester) on January 16, 1986, and the Illinois local exchange carriers (ILECs), on December 30, 1986. In June 1985, we found that the Florida plan, as then structured, would impose additional cost burdens on telephone subscribers in other states and recommended that Florida revise its plan. Recommended Decision and Order, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, FCC Memo No. 5328 (released June 25, 1985). The Rochester and ILEC petitions will be discussed in this proceeding. See infra note 77.

11 Pursuant to that study, we recommended broader lifeline measures that provided for federal benefits, which match state assistance, up to the full amount of the SLC, provided the state has a lifeline program that has been certified as meeting our general requirements that eligibility for such programs be means-tested and subject to verification. Our recommendations were adopted by the Commission in December 1985. Recommended Decision and Order, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, 50 Fed. Reg. 52,964 (1985); Decision and Order, MTS and WATS Market Structure and Amendment to Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, 51 Fed. Reg. 1371 (1986) (hereinafter Lifeline Order), aff'd on recon., 1 FCC Rcd 436 (1986) (hereinafter Lifeline Reconsideration Order).

\$2.00 until the completion of a further Joint Board proceeding to examine the effect of SLCs on universal service, economic efficiency, interexchange competition, and bypass.¹³ With a few minor changes and clarifications, the Commission adopted our recommendations.¹⁴

12. On July 2, 1986, the Commission issued its Further Notice asking this Joint Board to examine the effects of (1) SLCs, (2) the federal lifeline assistance program, and (3) the present measures to assist high cost telephone companies, on the primary goals of the access charge proceeding and interexchange competition. The Commission recognized that this Joint Board's previous recommendation on these issues involved integrated measures adopted to advance the four primary goals of the access charge proceeding and interexchange competition. It stated that the lifeline program and high cost assistance measures were integral parts of a cohesive package, and therefore must also be examined as part of the review of SLCs. In addition, the Commission requested our recommendations on possible modifications to the current provisions for mandatory nationwide pooling of common line costs and revenues.¹⁵

12 High cost assistance measures contained in Part 67 of the Commission's rules allocate an additional percentage of NTS loop costs to the interstate jurisdiction for LECs with higher than average NTS loop costs. 47 C.F.R. § 67.631 (1986). These measures are designed to reduce the intrastate cost allocation and keep local service rates lower than they otherwise would be. See Recommended Decision, supra note 9, at paras. 46-73. These measures are also described as the High Cost Factor or the Universal Service Factor in the Commission's rules, but are more commonly referred to as the high cost fund or universal service fund in Joint Board and Commission decisions. See 47 C.F.R. §§ 67.601 and 69.501(a) (1986). For additional discussion on high cost assistance see Further Notice, supra note 1, at para. 8.

13 Recommended Decision, supra note 9, at para. 2.

14 Decision and Order, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, 50 Fed. Reg. 939 (1985) (hereinafter Subscriber Line Charge Order).

15 The Commission has prescribed a nationwide mandatory pool for the interstate allocation of common line costs. See Access Charge Order, supra note 4, at 328; and infra paras. 112-116. Pursuant to Commission Rules, the recovery of the interstate portion of NTS loop costs is administered by the National Exchange Carrier Association (NECA). These rules also provide that these costs are assigned to the "common line element" and are recovered in part from end users through SLCs and in part from interexchange carriers through nationally uniform, per minute CCL charges. See 47 C.F.R. §§ 69.601-69.610 (1986). The CCL charge is the per minute charge paid by

13. In seeking public comment for our consideration of these issues, the Further Notice requested discussion on whether the original three-part plan presented in our recommendations has furthered the primary goals of this proceeding and what further steps, if any, should be taken to achieve these goals. Specifically, it asked for comments on: (1) whether the SLCs should be increased (and if so, to what level and on what schedule), modified in some fashion, or remain unchanged at their present level; (2) whether the federal lifeline program and high cost assistance measures presently in place reflect a properly targeted response to the need for assistance to low income subscribers and subscribers in high cost areas, and whether these programs should be modified, and in what manner; and (3) what alternatives may be available to the current mandatory pooling mechanisms used to recover the interstate allocation of NTS exchange costs. Finally, the Commission requested that we evaluate all of the issues discussed in the Further Notice, as well as the comments and replies filed in the record, and prepare recommendations for Commission consideration that will further achieve the goals described in the Access Charge Order.

IV. Subscriber Line Charges and NTS Cost Recovery

A. Comment Summary

14. The interexchange carriers that submitted comments in response to the Further Notice¹⁶ — AT&T, ALC Communications (ALC) and US Sprint — generally support subscriber line charges and argue that these charges should be increased. Specifically, the IXC's believe that implementation of the limited SLC represents a movement to more cost-based pricing, which has resulted in increased economic efficiency and a decrease in pricing disparities among services with no adverse effects on universal service.

15. The IXC's cite several major benefits from the limited SLCs presently in effect. They argue that in terms of eliminating unreasonable service pricing discrimination, the movement to SLCs has already allowed substantial reductions in the CCL rate charged interexchange carriers. This flat-rate recovery of interstate NTS costs from end users has resulted in a smaller differential between switched access rates and substitutes, such as special access. IXC's assert that the benefits of SLCs are demonstrated by the substantial increase in total minutes of use (or MOUs) for switched access service.¹⁷

interexchange carriers through which the LECs recover the portion of their NTS loop costs assigned to the interstate jurisdiction that is not recovered through the SLCs.

16. In terms of economic efficiency benefits, AT&T observes that with the implementation of SLCs, its interstate message toll rates have decreased approximately 20%¹⁸ for the average customer, and the number of AT&T's interstate toll messages has increased by 9%. AT&T further states that the economic efficiency benefits that result from flat-rate end user recovery of the interstate portion of MTS loop costs extend beyond the telecommunications sector. It references a study by the Wharton Econometric Forecasting Associates which concludes that implementation of SLCs has led to an increase of \$6 billion in the nation's real Gross National Product (GNP), created 10,000 new jobs, reduced the federal deficit by \$1.9 billion, and decreased overall price levels by .1%.¹⁹ Furthermore, AT&T urges that it is necessary to continue increasing the transition to flat-rate subscriber line charges to increase the use of the network and generate the full range of societal benefits that will flow from more economic pricing.²⁰

17. AT&T claims that although some progress has been made in deterring uneconomic bypass, 70% of the interstate subscriber plant revenue

16 A list of all parties and their abbreviations commenting in this proceeding is found in Appendix A.

17 According to AT&T, NECA's midyear 1986 filing reported a 10% increase in access MOUs between 1984 and 1985. AT&T Comments at 13.

18 See AT&T Comments at 13. AT&T attributes this decrease is to the transfer, since 1984, of more than \$3 billion per year from IXC recovery to subscriber loop recovery, together with other Commission policies that have further reduced CCL rates. AT&T rates for switched access (MTS and WATS) services were reduced by 5.6% in 1985 and by another 12% in 1986, each as part of the flow-through which we recommended with the implementation of the \$1.00 and \$2.00 SLC. AT&T Comments at 16. Additional decreases of 11% for MTS and 5% for WATS that were not reflected in the AT&T comments became effective on January 1, 1987. See infra note 67.

19 Wharton Econometric Forecasting Associates, Pricing Telecommunications Services: The Impact on the U.S. Economy of Subscriber Line Charges (1986) (Wharton Study).

20 AT&T cites the Wharton Study as demonstrating the full range of benefits to be gained from implementing a \$1 per month subscriber line increase each year for the next five years, culminating in a \$7 dollar SLC cap in 1991. With this further progress in cost-based pricing, AT&T claims that the implementation of SLCs over a 5 year phase-in will lead to an increase of \$23.8 billion in the real GNP, create 30,000 new jobs, reduce

requirement is still being recovered through IXC charges. It contends, along with ALC, that some bypass of the public switched network is being averted by subscriber line charges and other Commission action, but that if the present uneconomic toll loading continues, the bypass potential will be significant. Thus, AT&T concludes that this Joint Board and the Commission must continue to move away from uneconomic toll loading by increasing SLCs. It views movement to \$4.00 by 1988 as an essential next step in that process. AT&T and ALC see no universal service concerns as a result of the present limited SLCs, citing steady or increasing telephone penetration levels. AT&T also contends that if problems should develop with the implementation of increased SLCs, the Commission has an ongoing monitoring program and would be able to respond quickly to mitigate them.

18. While ALC and US Sprint support increased SLCs, they suggest that SLCs be increased at a rate of \$.50 per line per year in order to minimize consumer disruption, and to coincide with the completion of equal access conversions and protect interexchange competition.²¹ MCI states that any increase in SLCs must be based on a strong record of economic efficiency, because, in its view, bypass concerns alone do not justify an increase in SLCs.²²

19. The LECs also state that the implementation of limited SLCs has furthered the primary goals of this proceeding. Thus, as a group they strongly support an increase in the level of SLCs. Four major industry groups are sponsors of the LEC industry-wide Unity 1-A agreement, submitted as comments in this proceeding,²³ and propose in that agreement an increase

the federal deficit by \$10.3 billion and decrease overall price levels by .1%. AT&T Comments at 24.

21 As an alternative proposal, ALC recommends that the Commission substitute a fixed price differential between premium and nonpremium access service for the current percentage based differential, in order to reduce the pressure on the other common carriers' (OCCs) operating margins resulting from lower CCL charges. US Sprint supports this alternative proposal.

22 In MCI's opinion, the Commission's decision requiring that the price of WATS access lines be cost-based and that reductions be made to the originating CCL rate have done much to address the bypass problem. According to MCI, a direct result of this decision is to eliminate the uneconomic loading of NTS costs on WATS usage and with that diminish the incentive for uneconomic bypass of the switched network. In its reply comments, MCI critiques the analyses and assumptions of the various bypass studies submitted by the Bell Operating Companies (BOCs). See infra note

in residential and single-line business SLCs to \$3.00 in June 1987 and \$4.00 in January 1988, or the amount with which a LEC will recover its full study area interstate NTS loop costs, whichever is less. The agreement also provides that LECs may voluntarily raise their SLCs above \$4.00, subject to considerations of universal service objectives and market conditions, and that interexchange carriers should pay an "appropriate portion" of interstate NTS costs. Furthermore, as part of their joint comments, the Unity 1-A sponsors propose to increase the subscriber line charge applied to embedded Centrex lines from the present \$3.00 amount to a \$4.00 cap in June 1987 and a \$5.00 cap in January 1988.²⁴

20. The LECs argue that the implementation of \$1.00 and \$2.00 SLCs has resulted in economic efficiency benefits, citing the significant reductions in CCL rates that have increased overall demand for interstate

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23 The four industry associations that submitted the Unity 1-A agreement are the National Rural Telephone Association (NRTA), the National Telephone Cooperative Association (NTCA), the Organization for the Advancement and Protection of Small Telephone Companies (OPASTCO), and the United States Telephone Association (USTA). This agreement is an outgrowth of the LEC 1984 Unity agreement, which was submitted for consideration during our previous examination of these access charge issues. The Unity 1-A agreement was filed in this proceeding on July 25, 1986, and was supplemented by comments and reply comments by the sponsors.

The sponsors state that they represent over 1300 local telephone companies owning over 99% of all exchange access lines in the country. They present as the major goals of their agreement: 1) the broadest connectivity reasonably attainable; 2) usage charges which will encourage efficient use of the network; and 3) reduction in the scope and complexity of regulation. The agreement presents a comprehensive approach to the issues raised in the Further Notice, by advocating not only increases in SLCs, but also revisions in high cost assistance (discussed infra paras. 75-77) and the present pooling system (discussed infra paras. 98-101).

Additionally, the Unity 1-A agreement reflects the third goal of its sponsors by supporting continued use of average schedules as a compensation mechanism and of an overall interstate rate of return in each jurisdiction as the most appropriate method to properly protect the rural, high cost, highly leveraged, REA-funded LECs and all other small telephone companies. It also seeks the reduction or elimination of FCC requirements the sponsors describe as unnecessary and burdensome, and separations reform. As these latter issues are beyond the scope of this proceeding, they are not discussed herein.

switched access services. They also claim that universal service has not been adversely affected by SLCs, contending that nationwide telephone penetration levels are at their highest point (over 92%) since divestiture²⁵ and that there has been no decrease in telephone penetration levels for low income, elderly or rural populations as a result of SLCs.²⁶ Many of the BOCs and independent LECs state in their comments that in their particular regions the telephone penetration rates have not decreased²⁷ and in many instances the number of switched access lines has increased.²⁸ In particular, Southwestern Bell sees no evidence that the present SLCs have had a negative impact on universal service. Its comments include a disconnect study conducted in Kansas City that it claims revealed that high toll bills were more influential on the decision to disconnect than the cost of basic local service. Similarly, a Washington state study submitted as an

24 See Joint Comments, Appendix 3 at 3.

25 See Bell Atlantic Comments at 4.

26 Bell Atlantic states that penetration rates for the elderly customers in its service area are in excess of 95%. Id. at 5. In addition, NYNEX noted a net gain in the number of subscriber lines since June 1, 1985, in its end offices which serve low income, elderly and rural areas. NYNEX Comments at 16-17.

27 For example, Bell Atlantic states that there has been no statistically significant decline in telephone penetration rates in any state it serves. See Bell Atlantic Comments at 5. See also Ameritech Comments at 4-5; Rochester Comments at 17; Cincinnati Bell Comments at 2-3; NYNEX Comments at 16-17; Pacific Bell and Nevada Bell Comments at 3; SNET at 2-3; US West Comments at 9.

28 BellSouth reports a 2.2% increase in the number of households it serves during the past two and one-half years, while Rochester reports an increase of 2.1% in the number of households it serves in just over two years. BellSouth Comments at 8; Rochester Comments at Exhibit A; see also Centel Comments at 2; Pacific Bell and Nevada Bell Comments at 3.

LECs also note their ability to maintain low basic rates. Bell Atlantic claims that the cost of basic local telephone service remains quite low and that, as a percentage of household income, the price of flat-rate residential service has actually decreased over the past ten years. It further notes that even with a \$4.00 subscriber line charge, the cost of flat-rate residential service would still represent less than .5% of the average household income. Bell Atlantic Comments at 5-6.

appendix to US West's comments found that, on average, customers whose service was disconnected had long distance charges equal to or in excess of their bill for local service.²⁹ Thus, these LECs conclude that to the extent that SLCs have caused and will continue to cause significant decreases in the interstate toll rates, many low income customers can benefit.

21. The LECs also argue that implementation of limited SLCs has provided greater incentive for large users to stay on the network and has thus averted or delayed decisions by these users to bypass the switched network. The LECs assert, however, that the uneconomic pricing disparities, if left unchanged, remain at levels sufficient to force large users to abandon the public switched network for economic reasons. Southwestern Bell states that the existing SLCs have diminished uneconomic bypass incentives, but submits several studies supporting its conclusion that significant bypass incentives remain.³⁰ A number of other BOCs also submitted studies or data to demonstrate present or future bypass risks, focusing on the perceived immediate threat of service bypass,³¹ as they urge further

The Unity 1-A sponsors note in their reply comments that several states have recently moved to implement limited subscriber line charges for intrastate recovery purposes as well. Joint Reply Comments at 13.

29 See infra note 60.

30 Southwestern Bell submitted with its comments the results of three different bypass studies to support its conclusion regarding bypass. First, using a Location Specific Bypass System (LSBS) model, it found that if all customers who had the economic incentive adopted the identified bypass technology after June 1, 1986, Southwestern Bell would have seen decreased revenues of \$296.7 million. Southwestern Bell Comments at 17-18 (App. 4). In its Bypass Adoption Rate Study (BARS), it estimated that about 24.8% of its total chargeable access minutes would be lost to bypass in 1990, in spite of a \$2.00 SLC and the changes in access charge rules adopted in the Commission's decision in CC Docket No. 86-1. It estimated that the bypass loss by 1995 would reach 39.7%. Id. at 19. In its third study, in which it employed a Bypass Analysis and Tracking System Data Base (BATS) and attempted to measure the extent that bypass is actually occurring in its certificated service areas, it found that 674 traffic locations met the threshold of a 40% decrease in toll minutes of use over the designated time period, a figure that Southwestern Bell claims indicates that a location has potentially bypassed Southwestern Bell's network. Southwestern Bell says that it is supplementing this study with on-site visits and other techniques to corroborate that the identified locations are in fact bypassing. It has verified 12 bypass systems in Kansas, which it maintains would, with full implementation, result in a minimum annual loss of \$3.5

action to reduce CCL rates by increasing SLCs. Ameritech asserts that, with the concentration of business in the Chicago loop area and new competitive fiber optic systems being introduced there, some 20% of Illinois Bell's total revenues are at risk from bypass. BellSouth maintains that under current rules, the potential loss from bypass in its region is \$397 million. NYNEX, Pacific Bell, and US West also identify serious bypass concerns for their areas.³² In addition to their own studies, many of these LECs cite

million in access and intraLATA toll revenues. Southwestern Bell maintains that bypass by one large user in St. Louis has already reduced its revenues by \$6 million annually. Id. at 19-21.

31 Service bypass involves the migration of customers from switched to special access services due to uneconomic loading of NTS loop costs on interstate toll rates. Southwestern Bell contends that service bypass remains an immediate problem, submitting that orders for high capacity facilities, which it assumes are being used to carry bypass traffic, increased 183% from June 1985 to May 1986. It estimates that changes from switched to special access facilities by two large Oklahoma companies alone resulted in an estimated annual revenue loss to the company of \$8 million. Id. at 21. Rochester asserts that despite reductions in toll rates and general economic growth, the switched access service usage of its top 10 customers declined by 27.6% during a three-month period in 1986 when compared with their usage during the same period in 1985, while at the same time, the use of special access facilities by these same customers increased by 47.6%. Rochester Comments at 21-23. MCI claims that Rochester's study does not consider CCL and toll rate reductions, and thus is not useful. MCI Reply Comments at 13-14.

32 NYNEX claims that evidence that its end offices predominately serving businesses have had a lower rate of growth than residential end offices, and that there is a lower percentage of growth in originating than terminating minutes, supports the argument that business users are bypassing services to avoid paying uneconomic switched access charges. NYNEX contends that usage carried over private lines has grown more rapidly than overall usage, and that if bypass is left unstemmed, the unrecovered cost per subscriber line per month will be an average of \$2.30 - 3.46 in New York and \$1.39 - 2.09 in New England. NYNEX Comments at 9-12.

Pacific Bell cites twenty-one specific examples of bypass of its network and maintains that bypass is a growing phenomenon due to vulnerability in regulated rate design, availability of advancing technologies, and vendor strategies that lock Pacific Bell out of marketing intraLATA services. Pacific Bell and Nevada Bell Comments at 4-5 and Attachment C. US West conducted two studies that it maintains demonstrate that the current level of end user charges must be increased to further reduce the incentives for uneconomic bypass. It states that one study,

a recent report issued by the United States General Accounting Office (GAO) which concluded that 16-29% of customers bypass and as many as 53% of the LECs' customers are considering plans to initiate or increase bypass activities.³³

22. CP National, the one LEC that does not support increasing SLCs at this time, asserts that the record does not support claims of uneconomic bypass, and proposes that the Commission maintain the current SLCs since the perceived benefits of SLCs "have not reached CP National's service areas."³⁴ Shenandoah, while expressing its support for the Unity 1-A agreement's proposal regarding SLCs, also maintains that the agreement's statement that interexchange carriers should continue paying an "appropriate portion" of common line costs supports its position that IXCs should pay a charge based either on relative use/interstate subscriber line usage (or SLU) or a roughly equivalent fixed percentage (9-10%) of NTS loop costs. Shenandoah suggests that this charge be assessed on a study area basis and maintain that for many customers such a charge would permit the capping of SLCs at less than \$4.00.³⁵

comparing the number of customer locations for each state in the US West service region where the customer has an economic incentive to shift traffic from switched to special access services, showed that the economic incentive for bypass would be eliminated with a full, cost-based SLC. A second study calculating the cross-over point between switched and special access services confirmed, in US West's view, that a reduction in bypass potential occurs as access prices continue to move in the direction of actual costs. US West Comments at 29-30.

MCI critiques the bypass studies presented by the BOCs. It claims that Ameritech's conclusion regarding the bypass problem in Chicago is irrelevant since it focuses only on facilities bypass and, in MCI's view, further implementation of SLCs will not influence this type of bypass. MCI claims that BellSouth fails to explain how it derived its estimate of \$397 million in revenue loss. MCI contends that NYNEX vastly overstates the bypass problem and that in reality the bypass threat is "miniscule" in terms of the impact on the end user. MCI faults Pacific Bell's analysis for misstating the assumed price for special access service, for failing to compare special access and WATS rates, and for overstating the amount of traffic each special access line can carry. MCI claims that Southwestern Bell's LSBS study erroneously assumes that switched access service is homogeneous with all forms of bypass, and that a customer will choose only one IXC, the one in closest proximity to it. MCI Reply Comments at 2-17.

33 See infra note 76.

34 CP National states that it serves local areas identified as rural, many of which have high local exchange rates. CP National states that

23. State public utility commissions (state commissions) participating in this proceeding express a range of views on the NTS cost recovery issues. At the outset, a number of state commissions, particularly those of California, the District of Columbia, Kansas, Missouri, and New York, raise concerns that this reexamination proceeding is premature since the subscriber line charge was only increased to \$2.00 in June 1986. They contend that SLCs have not been in effect for a sufficient time period to determine accurately the impact that an increase in SLCs would have on the universal service objective. In addition, some argue that there have been several changes in the jurisdictional separations rules, along with other Commission actions aimed at deterring bypass, and that the impact that these changes will have on local rates should be determined before any increases in SLCs are considered.³⁶

24. In addressing the substance of NTS cost recovery issues, many state commissions urge that the NTS costs allocated to the interstate jurisdiction should be recovered through charges to the IXCs as well as flat-rate charges on end users.³⁷ Michigan and Missouri suggest that the

although it has an overall annual growth rate of 2% in the number of subscribers it serves, it also serves particular areas with depressed penetration levels. CP National Comments at 2.

35 The Unity 1-A sponsors disagree with Shenandoah's interpretation that a SLU-based IXC charge for each study area is consistent with that agreement, contending that the use of SLU would not have the same "relatively consistent impact" among the LECs as the Unity 1-A proposal. Joint Reply Comments at 32.

36 On January 9, 1987, the Colorado Public Utilities Commission filed comments, in which it argued that any increase in SLCs should be delayed until further study of an allocation and pricing theory presented in a report, entitled "Cost-of-Service Methods for Intrastate Jurisdictional Telephone Services," issued by the National Regulatory Research Institute (NRRI), Report No. NRRI-84-13, in April 1985. Although these comments were submitted three months after the close of the pleading cycle and we do not want to encourage such lateness, we will consider them in order to fully explore all positions on the issues raised in the Further Notice.

37 On March 4, 1987, the National Association of Regulatory Utility Commissions filed a resolution in the record, stating that there should be no increase in the existing SLCs until one full year of experience and a study of the impact of the existing charge and any increased charge on subscribers, and that interexchange carriers should pay a portion of the interstate allocation of NTS loop costs based upon a measure of relative

IXCs should pay an interstate SLU-based charge, that is, a charge based on relative interstate toll subscriber line usage, with any additional NTS costs not recovered from IXCs available for recovery through SLCs.³⁸ Some other state commissions go further and argue that SLCs should be eliminated.³⁹ Arkansas also adopts the concept of charges based on relative interstate use to IXCs, but proposes more fundamental changes in jurisdictional separations and NTS cost recovery.⁴⁰ Like Arkansas,

use of subscriber lines. Letter from Paul Rodgers, General Counsel, National Association of Regulatory Utility Commissions, to William J. Tricarico, Secretary, Federal Communications Commission (March 2, 1987).

38 Michigan maintains that the present \$2.00 SLC brings some low cost LECs to a point where only a SLU-based residual remains to be recovered from the IXCs. Missouri agrees and further argues that the Joint Board recommendation of November 1984 supports the position that IXCs should pay, on a nationwide basis, a charge based on at least a SLU level of NTS costs. It recommends that before increasing SLCs, the Joint Board should examine how close the current policy brings the LECs to a SLU-based IXC charge.

AT&T opposes the concept of a SLU-based charge on IXCs, along with a cap on end user interstate NTS cost recovery, claiming that this proposal amounts to a reversal of the Commission's fundamental position on recovery of NTS costs through end user charges. AT&T asserts that, in any event, with a SLC of \$4.00 in 1988, the IXCs would still be paying charges which exceed a SLU-based portion of NTS loop costs. AT&T Reply Comments at Attachment B.

39 Specifically, Kansas, Texas and Arkansas call for eliminating SLCs.

40 In its comments in this proceeding, Arkansas Public Utilities Commission (Arkansas) proposes an "experimental unified tariff" for NTS cost recovery, applicable only to its state. In its reply comments, Arkansas modifies and expands on this proposal to apply it on a nationwide basis. In its revised proposal, Arkansas proposes first that all residential SLCs be eliminated and that the money currently recovered through these charges be allocated to the intrastate jurisdiction and recovered through local rates in "the most economic and equitable manner." Second, Arkansas proposes that the interstate allocator for NTS common line costs be gradually reduced from the 25% basic allocator to a SLU-based allocator on a study area basis. Under the plan, those NTS costs remaining in the interstate jurisdiction would be paid by IXCs. Arkansas also makes other specific proposals regarding the method of recovering these costs from the IXCs. Like Arkansas, Texas proposes eliminating the SLC and shifting the associated NTS costs to the intrastate jurisdiction, thereby allowing the state commissions to develop the most "equitable and economically efficient" means of allocating these costs.

California suggests a jurisdictional separations change to a SLU-based allocation for the interstate portion of NTS costs, and at the same time endorses Shenandoah's proposal.⁴¹

25. Focusing specifically on SLCs and their impact on universal service, the District of Columbia, Florida, Kansas and Texas contend that the Commission cannot rely on data from the U.S. Bureau of the Census (Census Bureau) to find that penetration rates have not decreased as a result of implementing SLCs, because other factors such as population growth rates or the lifeline program may have been effective in keeping overall penetration rates at the current levels. Furthermore, Arkansas, Missouri and New York also contend that subscriber line charges are similar to local service rates and, as such, increasing SLCs will increase the cost of access to the local network and thereby decrease the number of persons who could afford telephone service. In particular, New York argues that the Commission must consider an end user's total monthly bill in order to evaluate accurately the effect on the end user of increasing SLCs. California argues that the impact of subscriber line charges on universal service must be evaluated in conjunction with other changes causing upward pressure on local service rates such as the phase-out of CPE costs and the deregulation of billing and collection. Arkansas argues that, with a

Comments were received only on the initial Arkansas "experimental unified tariff" proposal. That experimental proposal would recover both interstate and intrastate costs pursuant to a unified tariff administered by the state, that would be characterized by flat-rate recovery from the IXC's. MCI opposes the Arkansas plan because it would shift the risks of NTS investment from LECs to IXCs. It further maintains that the plan imposes double-charges on IXCs that purchase special access by including special access minutes in the calculation of market share for the apportionment of switched access NTS cost recovery. MCI also faults the plan for failing to provide for some differential rate between premium and non-premium access service. Ad Hoc argues that Arkansas failed to explain its proposal in sufficient detail. Finally, the sponsors of the Unity 1-A agreement rebut the contention made by Arkansas that a SLU-based charge to IXCs is consistent with that agreement. They explain that the agreement clearly does not advocate the jurisdictional separations changes required by the Arkansas plan, and that the use of SLU would not have the same effect as the Unity 1-A proposal. See also supra note 35 and accompanying text.

41 NYNEX cautions that the concept of a SLU or relative-use-based recovery of loop costs from the IXCs raises several concerns. First, NYNEX expresses concern that because SLU is a usage-sensitive allocator, NTS cost recovery from the IXCs on a SLU basis could exacerbate uneconomic bypass. Second, it notes that by merely shifting more of the revenue requirement to the intrastate side of the business, the SLU allocator does not necessarily

penetration rate of only 88% in its state, an increase in SLCs will frustrate universal service. Pennsylvania and Texas contend that the typical subscriber who makes few long distance calls does not benefit from the decreased interstate toll rates that have resulted from the introduction of SLCs.

26. In contrast to most other state commissions, Illinois argues that subscriber line charges should be increased, contending that the transfer of NTS cost recovery to end users will encourage efficiency, promote rational economic development, maintain universal service and lead to a decrease in unnecessary subsidization in the telecommunications industry. Illinois supports its argument by noting that subscriber penetration levels for Illinois have remained stable. It states that the maintenance of large customers on the public switched network will ensure that all subscribers enjoy the benefits derived through the use of common facilities.

27. Illinois also cites its concern with bypass problems in Chicago as justification for increasing SLCs.⁴² Other state commissions maintain that little evidence has been presented to establish the existence of uneconomic bypass or the effect that SLCs have had in combatting it; in their view, the evidence provided so far has been mostly anecdotal.⁴³ They maintain that the costs of imposing higher subscriber line charges outweigh

solve the uneconomic bypass problem; such action may create upward pressure on intrastate rates and incentives for more bypass.

42 In its reply comments, New Jersey Board of Public Utilities (New Jersey) also states its concerns with bypass problems present in its state, and includes several examples of existing bypass activities. It encloses a report downgrading New Jersey Bell's bond rating because of the financial community's concern respecting bypass of New Jersey Bell's network, caused by the mandatory pooling of carrier common line costs.

43 A number of state commissions specifically criticize the bypass studies and surveys submitted by the BOCs. California rebuts Pacific Bell's information on bypass (see supra note 32), claiming that it does not necessarily support a conclusion that SLCs should be increased. It maintains that the break-even point for bypass could be raised by increasing special access rates relative to switched access rates, just as effectively as raising SLCs. Kansas faults the bypass studies submitted by Southwestern Bell (see supra note 30). It argues that under the LSBS model, ratepayers would be paying more in SLCs than the amount saved in decreased bypass. Furthermore, Kansas submits that the BARS study fails to consider a number of factors besides rates that were cited by Southwestern Bell in its

the benefits of avoiding bypass revenue losses, that studies do not indicate that greater SLCs are necessary to combat bypass, and that increased SLCs will increase "local bypass" and further erode universal service. A number of state commissions argue that reduced interstate toll rates resulting from implementation of SLCs have not helped alleviate bypass, because factors other than the price of long distance services influence the decision to bypass.⁴⁴

28. Several consumer groups, along with the Communications Workers of America (CWA), oppose increasing SLCs.⁴⁵ The CWA and the CFA, like many of the state commissions, argue that it is premature to reexamine SLCs at this time. The Consumers' Councils and AARP contend that NTS costs should not be recovered through flat-rate charges on the end user at all, but that it is ultimately "fairer" for interstate toll users to continue to pay all the NTS costs.⁴⁶

29. Moreover, several of these commenters believe that in the long run SLCs are likely to have a negative effect on universal service. AARP contends that the decline in long distance rates will not offset the additional subscriber line charges for all users, since, according to its data, only 65% of all residential telephone users make long distance calls and, of those individuals, few make greater than \$10 in long distance calls per month. Other user groups argue that the Census data cannot be relied upon to support the proposition that SLCs have not had an adverse impact on telephone penetration rates. In particular, in their joint comments,

comments. Finally, Kansas maintains that the BATS study is not helpful in this proceeding, since much of the bypass found by survey-type bypass studies involves systems that have been in existence for many years.

44 These state commissions include those in Arkansas, California, Kansas, Michigan, and Missouri. They rely primarily on a December 1984 Bypass Report by the NRRI to support this position. Southwestern Bell argues that the NRRI Report inaccurately portrays the nature and extent of bypass because it was conducted in 1984, before AT&T instituted its Megacom and Software Defined Network services. It also faulted the report for excluding resellers, who may be the largest users of Megacom service.

45 These groups include the Consumers' Councils of Georgia, Washington, and Colorado (Consumers' Councils), filing joint comments, and Consumers' Councils of Ohio, New York, and the District of Columbia, filing independently; the United Church of Christ Office of Communications (UCCOC); the Association of American Retired Persons (AARP); the Consumer Federation of America (CFA); and the National Association of State Utility Consumer Advocates (NASUCA).

Consumers' Counsels contend that the effect of SLCs on penetration rates for telephone service has been obscured by other factors such as an overall increase in income and reductions in unemployment.

30. Some of these consumer groups also question whether there have been any actual economic efficiency gains from the implementation of SLCs.⁴⁷ NASUCA and CWA contend that only anecdotal evidence supports the notion that increased SLCs are necessary to fight bypass, and that other devices, such as tapered rates, flat-rate IXC charges and contract pricing would be more effective. Consumer groups generally maintain that there is no evidence that large users are leaving the switched network due to the present level of CCL charges, and also cite the high marketplace performance of telephone companies in support of their argument that bypass is a more distant problem than what they term the direct threat posed by increased SLCs.

31. Several other user groups⁴⁸ as well as the National Telecommunications and Information Administration (NTIA), and the U.S. Department of Justice (DoJ) argue that the existing SLCs have increased consumer welfare as demonstrated by the decrease in long distance toll rates and growth in the minutes of use for switched access services. These parties generally contend that evidence shows that telephone penetration rates have not decreased and therefore universal service has not been harmed by the implementation of SLCs. DoJ and NTIA, as well as API, support further increases in SLCs in order to deter bypass. They argue that the existing access charge system continues to engender uneconomic bypass, and while it is difficult to quantify bypass, it cannot be ignored as a threat.⁴⁹

46 The New York Consumer Protection Bureau concurs in this point. The Ohio Office of Consumer Counsel also recommends the phase-out of SLCs, and the adoption of a flat-rate charge for IXCs.

47 The Consumers' Counsels maintain that the Commission has not derived the marginal cost data concerning NTS loop costs, which it asserts is necessary to evaluate whether prices are moving closer to the marginal cost of the product and, without such data, the Commission cannot determine whether there in fact have been any economic efficiency gains with the implementation of SLCs.

48 These groups include the American Petroleum Institute (API), Concerned Citizens for Universal Service (CCUS), and the International Communications Association (ICA).

49 Ad Hoc supports increasing SLCs although not due to bypass concerns, claiming that the rhetoric about bypass far exceeds any evidence that it has

B. Discussion

32. In developing this recommended decision, we have carefully evaluated the record regarding the impact of the limited SLCs presently in effect. When we recommended that the Commission implement only the \$1.00 and \$2.00 SLCs, we stated our belief that this step would: substantially reduce the extent of pricing discrimination between switched and special access services; promote economically efficient use of the local telephone network; and permit significant reductions in the CCL charge, thereby substantially reducing the incentive for interexchange carriers and high volume toll users to bypass the public switched network as well as permitting major reductions in interstate toll rates.⁵⁰ Moreover, we stated that the gradual phase-in of SLCs, and in particular our recommendation for a \$2.00 cap on the subscriber line charge pending further study, would guard against any adverse impact on universal service.⁵¹ We stated that this study would be conducted in late 1986.⁵²

33. Evaluation of the record before us indicates that our earlier recommendations regarding NTS cost recovery have had the intended effects and advanced our four national goals for this proceeding. First, we find that the implementation of SLCs has had no adverse effect on universal telephone service. Data, gathered by the Census Bureau as part of the Commission's monitoring plan since November 1983, show that the overall nationwide telephone penetration rate has increased since the implementation of the SLCs. In the Census Bureau's most recent release of information, we note that the figures for November 1986 indicate that 92.4% of all households in the U.S. have a telephone in their home.⁵³ This figure for

harmed small users and carriers. Ad Hoc and NTIA argue that SLCs should be increased to \$3.00, and then \$4.00, on an annual basis, rather than pursuant to the schedule proposed in the Unity 1-A agreement.

50 Recommended Decision, supra note 9, at para. 26. To ensure this latter result we recommended that the Commission take all appropriate steps to ensure that the decreases in access costs for IXCs resulting from implementation of the increased SLCs be flowed through to interstate toll customers.

51 Id. at para. 27. In our initial recommendation we noted that our concern for universal service was prompted by a variety of upward pressures on local service rates as well as the fact that SLCs represented a major change in the method of NTS cost recovery.

52 Subscriber Line Charge Order, supra note 14, at para. 5.

telephone subscribership is the highest reported by the Census Bureau since it first began to collect such data as part of the Current Population Survey in November 1983, which at that time showed a penetration rate of 91.4%. In addition, the data show that in November 1986 the number of households with telephone service was 83.1 million as compared to 78.4 million in November 1983. At the same time, the number of households without telephone service declined from 7.4 million to 6.8 million. Subscribership levels among low income groups have remained stable.⁵⁴ Moreover, the telephone penetration rates for the elderly, *i.e.*, individuals 60 years old and above, have remained steady at approximately 95%, a level above the national average.

34. These nationwide figures for telephone penetration rates are also supported by studies submitted in response to the Commission's request. Many LECs reported in this proceeding an overall increase in their penetration levels or a net gain in the number of subscribership lines in their service areas.⁵⁵ In addition, all of the 12 LECs that filed data on this issue found that there was no overall decrease in the penetration levels in their service areas and that there was no significant subscriber drop-off in any particular section of their service areas.⁵⁶ These 12 LECs

53 Telephone Subscribership in the U.S., Industry Analysis Division, Federal Communications Commission (released January 12, 1987); FCC Public Notice, Mimeo No. 1472 (January 12, 1987).

54 The Census Bureau's data gathered according to income groups contradict NASUCA's contention that telephone penetration rates actually have decreased for all income levels except for those households in the \$50,000 -74,999 income category. See NASUCA Comments at 3-4. At the outset, the study cited by NASUCA neglected to consider the effect of inflation on the value of the dollar. To be more accurate, comparison of penetration rates from different years should account for inflation because it decreases the value of the dollar over time; accordingly, it is not accurate to compare the 1983 telephone penetration rates for the same dollar level of income based on the value of 1983 dollars, with the 1986 telephone penetration rates for the same dollar income level based on the value of 1986 dollars. In addition, if the most recent data for income levels in November 1986 is actually compared to the November 1983 data, the record shows that the penetration rates for all the Census Bureau's income categories have remained steady, with minor fluctuations that are not statistically significant.

55 See Comments filed by BellSouth, Centel, NYNEX, Rochester, and United. In particular, NYNEX noted a net gain in the number of subscriber lines since June 1, 1985 in its end offices that serve low-income, elderly and rural areas. See NYNEX Comments at 16-17.

serve more than 90% of the nation's total local access lines.

35. Several parties, however, contend that it is too early to fully evaluate the effects of SLCs on universal service. While we remain alert to any potential impact that SLCs may have on universal service, and outline below a comprehensive monitoring plan to track the effect of the recommended SLC increases, we find nothing in the record that indicates that subscriber line charges have undermined universal service. We believe that sufficient time has passed to permit an initial determination concerning the effects of the implementation of SLCs on universal service. The release of the latest Census Bureau figures, showing nationwide subscribership levels at an all-time high, confirms the positive trend we have seen in penetration levels during the implementation of SLCs.⁵⁷

36. With careful monitoring and with any interested parties being allowed to file information on monitoring needs, any future declines in subscribership levels that might occur will be readily apparent and can be met with quick regulatory action. Accordingly, we recommend that the Commission mandate an open docket and increased monitoring of the effects of these charges by the Joint Board.⁵⁸

37. With regard to our universal service analysis in this proceeding, studies provided in the record indicate that subscribers may not connect initially, or may fail to reconnect, to the telephone network because of the high cost of commencing service.⁵⁹ Similarly, the record contains recent subscriber disconnection studies indicating that a major reason subscribers are involuntarily disconnected from, or voluntarily disconnect from, the telephone network is high toll bills.⁶⁰ These studies do not attribute a subscriber's decision to connect or disconnect from the telephone network to the implementation of SLCs,⁶¹ but indicate instead

56 See Comments filed by Ameritech, Bell Atlantic, BellSouth, Centel, Cincinnati Bell, NYNEX, Pacific Bell and Nevada Bell, Rochester, SNET, Southwestern Bell, United, and US West.

57 Several commenters contended generally that this growth trend is somehow masking subscriber drop-off. We are unable to give credence to this argument because it is contrary to the Census Bureau's data and the commenters have failed to provide evidence of subscriber drop-off.

58 The broader monitoring efforts that we recommend are discussed infra paras. 136-138.

59 See supra para. 20.

that other factors such as high long distance bills and high connection, installation and security deposit charges are largely responsible for keeping subscribers off the network.⁶² The record before us indicates that the \$2.00 SLC has not caused the subscribership declines that some observers anticipated would occur when the limited SLCs were initially recommended. For the foregoing reasons, we conclude that the implementation of limited SLCs has not undermined the goal of universal service.⁶³

38. Second, we find that the implementation of limited SLCs, by moving to a more cost-based pricing structure for switched access services, has produced economic efficiency gains. Specifically, the move toward recovery of a portion of NTS loop costs through SLCs has reduced switched access and interstate toll rates, generating substantial increases in interstate toll calling.⁶⁴ This increased traffic imposes little or no additional costs on the telephone network and allows recovery of NTS costs to be spread over a greater number of minutes of use. Since the implementation of SLCs, CCL charges have decreased by 40%.⁶⁵ A significant

60 See US West Comments at Appendix B.3, the Washington State Utilities and Transportation Commission Study; and Southwestern Bell Comments at Appendix 2, the Kansas City Disconnect Study.

61 In fact, a survey conducted by US West of customers in Tucson, Arizona, and Salt Lake City, Utah, found that a majority of those individuals not connected to the network were using pay telephones for their calling, and over 20% of them were spending approximately \$5.00 or more per week for telephone service. In addition, this survey found that these individuals were generally willing to pay between \$15.00-20.00 on average for monthly service charges. See US West Reply Comments at Exhibit 7.

62 A recent survey by CFA, AARP, and AT&T supports this conclusion. See infra note 112. As discussed below, these studies have prompted us to recommend responsive action in the form of additional federal lifeline assistance to offset connection charges. See infra paras. 68-70.

63 As discussed supra para. 11, lifeline assistance measures are also a critical element in a balanced effort to achieve universal service. Moreover, the additional lifeline assistance measures recommended below are designed to bring the benefits of telephone service to even more individuals.

64 In the three years prior to the implementation of SLCs, the growth in switched access minutes averaged 7.6% per year. Since implementation of these charges in May 1984, the growth rate has averaged 10.9% per year.

portion of this decrease is directly attributable to subscriber line charges.⁶⁶ In addition, interstate toll rates for the average customer have decreased approximately 30%⁶⁷ in the last three years.⁶⁸ This decrease in interstate rates has brought a significant increase in demand for interexchange services.⁶⁹ The LECs have experienced a concomitant increase

65 Since May 1984 when multi-line business subscriber line charges were implemented, CCL rates have dropped from 5.24 cents per minute of use to a current level of 3.14 cents on a weighted basis. With the initial implementation of the residential and single-line business subscriber line charge in June 1985, the CCL rate was a uniform 4.33 cents/minute. With the bifurcation of the CCL rate, the terminating charge remains at 4.33 cents/minute, but the originating charge decreased to 3.04 cents/minute in June 1986, and dropped to 1.55 cents/minute on January 1, 1987. These reductions are the result of the implementation of SLCs as well as the transition from SPF to 25% basic allocator, the phase out of inside-wiring and CPE cost recovery, the change in rate of return regulation and the changes adopted in CC Docket No. 86-1, which bifurcated the originating and terminating CCL rates. These reductions have occurred despite certain other regulatory actions during this period that by themselves would have had the effect of increasing the CCL rate (such as the increase in nationwide NTS loop costs and the special access treatment of WATS closed-end lines in CC Docket No. 86-1.)

66 Absent the present residential and single-line business, multi-line business, and embedded Centrex subscriber line charges, the weighted average level of the present CCL charge would rise from 3.14 to 4.97 cents per minute of use, an increase of 58%.

67 In its comments, AT&T reports a decrease in interstate toll rates for an average customer of approximately 20%. AT&T Comments at 13. However, we note that the Commission recently directed AT&T to lower its MTS rates by an additional 11% and its WATS rates by an additional 5%. AT&T Communications, Himeo No. 1287 (released December 30, 1986); and FCC News Release, Report No. CC-180 (released December 30, 1986). Although the Commission did not direct the other interexchange carriers, such as MCI or US Sprint, to decrease their rates, it anticipates that these companies will also reduce their rates in response to AT&T's action.

We recognize that these rate decreases, particularly the most recent one, are not solely attributable to the introduction of SLCs, because other separations and access charge changes have been implemented during this period, and the rate decreases have occurred in a relatively favorable economic environment. Nevertheless, it is clear that SLCs have had a major impact in bringing down the rates charged for interstate toll services.

68 Similar reductions are occurring in intrastate toll rates in order to

in the demand for their access services.⁷⁰ For example, Rochester states that it has experienced a steady increase in interstate switched usage throughout the 24-month period in which subscriber line charges took effect.⁷¹

39. These decreases in rates and increases in usage have substantially increased the economic efficiency of the nation's telecommunications network. Moreover, there are indications that the economic benefits extend beyond the telecommunications sector and benefit the overall national economy. In particular, the Wharton Study finds that the beneficial effects of the limited SLCs are not restricted to the telecommunications industry alone but are transmitted throughout the rest of the national economy. It concludes that the cumulative effects of the implementation of SLCs on the U.S. economy already include an increase in the real GNP of \$6.0 billion (in 1985 dollars); an increase of nearly 10,000 new jobs; a reduction in the federal deficit by \$1.9 billion; and a reduction in overall price levels of about .1%.⁷² While we recognize that

maintain parity with interstate rates. These concurring reductions are also benefiting the national economy.

69 Since the implementation of subscriber line charges, from 1984 to 1986, there has been a two year growth rate of 21.52 percent in the interstate MTS and WATS (including both open and closed-end WATS) minutes. See Annual 1985 Access Tariff Filing, CC Docket No. 186-125, Phase I, Mimeo No. 3643 (released April 14, 1986). In addition, AT&T reports an increase of over 9% in its number of interstate toll messages from 1985 to 1986, alone. AT&T Comments at 13. This increased demand for interstate toll calling also has had a positive effect on the growth of interexchange competition.

70 NECA's midyear 1986 filing reported a 10% increase in access minutes of use between 1984 and 1985. See supra notes 17, 64.

71 In addition, Rochester states that the average monthly interstate usage increased from 38.47 million minutes for the seven months in 1984 to 45.01 million in 1985, and to 50.28 million in the first six months in 1986. Rochester Comments at 26. Moreover, Southwestern Bell states that its average interstate usage per switched access line per month has increased from 132.8 minutes in 1984 to 141.8 minutes in 1986. Southwestern Bell Comments at 14.

72 See Wharton Study, supra note 19 and accompanying text. In addition to the Wharton Study, a study completed by the Commission also concludes that ultimately U.S. consumers benefit from reducing prices to businesses because lower telecommunication costs for businesses result in lower prices

it is very difficult to quantify the exact dollar benefits provided by the implementation of SLCs, the record indicates that the implementation of SLCs has introduced tangible economic benefits that further the goal of economic efficiency.

40. Third, we find that the implementation of SLCs has reduced the unjust discrimination between the prices for special access and switched access services. With the introduction of SLCs, local exchange carriers have been able to make substantial reductions in CCL charges assessed for their interstate switched access services. This decrease in switched access charges has decreased the uneconomic differential between the rates for switched and special access services, thereby providing more subscribers with the incentive to remain on the switched telephone network.⁷³

41. Fourth, with this reduction in discrimination between service prices, the implementation of SLCs has helped to reduce the threat of uneconomic bypass. We reach this conclusion because we believe that service pricing plays an important role in service selection by large telecommunications users, including interexchange carriers and resellers.⁷⁴ The economic incentives for bypass by high volume users are incontrovertable when switched access is priced above cost and special access or other bypass services are priced at cost. Thus, to the extent that switched access charges have been more closely aligned with the relevant costs, we believe

of the products these businesses provide. At the outset, however, it finds that the direct benefits of implementation of the SLCs include price reductions, an increase in total interstate conversation minutes and reduced bypass. The study finds that the first \$2.00 of SLCs produced an annual net benefit to telephone users of about \$600 million in 1986. These benefits are due to the value to consumers of the additional calls made by them as a result of the decrease in prices. The difference between the value consumers place on the stimulated calls and the additional costs generated by those calls is net gain to society. Office of Plans and Policy Staff Study, Federal Communications Commission, Economic Efficiency Benefits of the Current Subscriber Line Charge (released January 20, 1987).

73 Keeping subscribers on the switched network will ensure efficient use of the switched network and ease the recovery of NTS costs by increasing the number of minutes over which these costs can be spread. It will also continue the support and recovery of some of the NTS costs assigned to the interstate jurisdiction. This support is particularly important in high cost areas, where it helps maintain affordable local exchange rate levels.

74 Moreover, we are aware that a significant portion of the interstate allocation of NTS costs currently continues to be recovered through usage-based charges on IXCs using switched access services. Currently,

that large customers have been provided significant incentives to remain on the public switched network, and uneconomic bypass has been delayed or averted.

42. Numerous commenters have provided studies and comments which support the conclusion that the existing SLCs have had beneficial effects on the short-term bypass problem. For example, New Jersey and Illinois perceive bypass as a significant threat to the viability of their switched message network.⁷⁵ In addition, the GAO Bypass Study confirms that bypass is a problem in several areas and concludes that 16 to 29% of large telephone customers currently bypass the switched network.⁷⁶ We are aware of the difficulties in quantifying the actual threat of bypass and its impact on the public switched network. Nevertheless, recognizing the clear incentives which can steer large users away from the switched network, we believe that the numerous studies and surveys provided in the record generally support our conclusion that uneconomic bypass is and continues to be a threat to the switched network as long as the price of switched access service remains significantly above economic cost. In fact, a recent report finds that "[n]ationwide the installed capacity of non-LEC short-haul, medium-capacity, point-to-point, transmission alternatives now exceeds the in-use capacity of equivalent Regional Bell Operating Company (RBOC) services. The non-LEC alternatives are by and large, price-competitive with LEC services as currently tariffed."⁷⁷

43. For all the reasons listed above, we conclude that the limited SLCs we recommended in 1984 have advanced the primary goals of this proceeding. We here propose a permanent solution to the issue of the proper method for interstate MTS cost recovery. A key element of this solution provides an increase in the maximum limit on nationwide subscriber line charges by increments of \$.60, \$.60, and \$.30. The SLC cap will increase to

approximately 62% of the interstate common line revenue requirement is presently being recovered from IXC's. NECA Filing Application No. 71 (filed October 23, 1986).

75 Ameritech and Illinois agree that the bypass threat in the Chicago area warrants immediate action. NYNEX and New Jersey make similar arguments regarding the extent and nature of the bypass risks in their areas.

76 In addition, it reports that as many as 53% of large telecommunications customers plan to initiate or increase their bypass activities in the future. See United States General Accounting Office, Telephone Communications: Bypass of the Local Telephone Companies (August 1986) (included as Appendix 1 to Southwestern Bell's Comments). LECs also provided extensive data demonstrating bypass incentives and detailing numerous examples of bypass. See supra para. 21.

\$2.60 on June 1, 1987, to \$3.20 on September 1, 1988, and with a final increase to \$3.50 on April 1, 1989.⁷⁸ We also recommend that the Commission increase the maximum flat-rate charge on embedded Centrex lines, coincidentally with the increase in residential and single-line business SLCs, to a \$4.00 cap on June 1, 1987, a \$5.00 cap on September 1, 1988, and a \$6.00 cap on April 1, 1989, or the full multi-line business subscriber line charge, whichever is less.⁷⁹

77 P. Huber, *The Geodesic Network: 1987 Report on Competition in the Telephone Industry* at 2.23 (January 1987).

78 We do not recommend the Unity 1-A proposal, which would increase the SLC to \$3.00 in June 1987 and \$4.00 in January 1988, and which also provided for optional subscriber line charge recovery above \$4.00, under certain conditions, on a study-area basis. We believe that the benefits of our recommended revisions to the existing mandatory pooling mechanism, discussed infra paras. 117-135, can be achieved by increasing the maximum limit on SLCs whichever is less to \$3.50, and we perceive no need for further increases beyond this level. Additionally, the Unity 1-A proposal did not delineate the circumstances necessary under its plan for a LEC to qualify for the optional SLC increase above \$4.00; we note, however, that the experimental tariff procedures which we established in 1984 and 1985, would encompass such plans.

In addition, we want to take this opportunity to address two outstanding petitions relating to NTS cost recovery. See supra note 10. The Rochester petition, which proposed to implement an experimental plan that would allow it full recovery of its interstate NTS costs through a SLC of approximately \$3.54, was referred to this Joint Board for consideration. MTS and WATS Market Structure and Amendment of Part 67, Order Inviting Comments, CC Docket Nos. 78-72 and 80-286, Mimeo No. 2736 (released February 21, 1986). The ILECs' petitions request authority to implement an experimental plan that would increase the residential and single-line business SLC in Illinois to \$3.13, and has been referred to this Joint Board. MTS and WATS Market Structure and Amendment of Part 67, CC Docket Nos. 78-72 and 80-286, Mimeo No. 2235 (released March 9, 1987). However, Rochester in its comments and the ILECs in their petitions state that if we recommend increasing SLCs up to \$4.00, each will withdraw their petitions. Although we believe that our actions will meet the objectives of these petitions, we do not believe that we presently are in a position to dismiss them. Therefore, we request that Rochester and the ILECs file petitions to withdraw their requests to increase SLCs or to update their petitions in light of the recommendations herein. Furthermore, any other petitioners wishing to withdraw proposals considered in this proceeding may do so. See infra note 146.

44. In conjunction with our proposed increases in residential and single-line business SLCs, we propose that the Commission mandate development of a comprehensive monitoring plan to be specified in a Recommended Decision and Order to follow shortly.⁸⁰ With regard to the universal service impacts of the subscriber line charge increases we recommend expansion of the Commission's present monitoring of telephone penetration rates. In particular, we anticipate that this enhanced monitoring program will be better designed to track the impact of SLCs on particular population subgroups, such as low income households. Moreover, we recommend that prior to any SLC increases in 1988 and 1989, the members of the Joint Board and the Commission conduct a 90-day study and review of the impact of SLCs to date. The Commission should then report to Congress and state regulators on the results.

45. We are taking a balanced and cautious approach by recommending a gradual phase-in of more modest SLC increases in this Order. We are persuaded that the record shows that limited SLCs have not had an adverse impact on universal service⁸¹ and have had significant positive

79 The subscriber line charge assessed embedded Centrex lines was increased on June 1, 1986, from \$2.00 to \$3.00, or the full interstate NTS loop costs, whichever is less. Embedded Centrex lines are those lines that were in service or on order as of July 27, 1983. All other Centrex lines have paid the multi-line business subscriber line charge since 1984. The distinction between new and embedded Centrex lines was deemed necessary to avoid the possibility that customers would abandon Centrex service for Private Branch Exchange (PBX) service before the state commissions had an opportunity to adjust intrastate rate structures to allow Centrex service to compete effectively with PBXs. See MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, Mimeo No. 139 at paras. 2-17 (released October 8, 1985). We believe that sufficient time has elapsed to allow state regulators to adjust intrastate rates and therefore recommend that flat-rate Centrex charges be increased to the full multi-line business SLCs. Our recommendation regarding increased SLCs for embedded Centrex lines is similar to that suggested in the Unity 1-A proposal and since no objections were filed to the Unity 1-A proposal to increase the SLC for these lines, all concerns regarding embedded Centrex pricing appear to have been alleviated.

80 See infra paras. 136-138.

81 What the record does reveal is that high charges assessed for commencing telephone service is one key factor keeping subscribers off the

benefits with regard to the other three goals of this proceeding--bringing efficiency gains, decreasing service price discrimination and mitigating of bypass incentives. Moreover, we believe that the concerns that we focused on during our consideration of SLCs two years ago do not loom as large at this time. First, substantial pressures on local service rates have dropped dramatically in the past few years.⁸² Second, we now have some experience with subscriber line charges as a method of NTS cost recovery. Thus, we believe that limited further steps in subscriber line charge recovery can bring about the same positive effects with minimal effects on our universal service goal.

46. Nevertheless, we are very sensitive to the position taken by several parties that past experience with SLCs may not necessarily assure the same favorable results in the future.⁸³ It is for this reason that we are proposing a very gradual schedule for implementation of these increases in this charge--more gradual than the schedule developed for the original subscriber line charge levels. We believe that our proposal to increase the maximum charge by two \$.60 and one final \$.30 increment, rather than \$1.00 increments, as well as to spread out the total increase over a 25 month period, addresses the universal service concerns by lessening the potential for any possible harm to subscribers that might result from increased subscriber line charges.⁸⁴ Moreover, our recommended

network. To address this problem, we are recommending an additional lifeline assistance program to offset these charges. See infra paras. 68-70. Furthermore, we are recommending that the benefits under the subscriber line charge waiver measures of the existing federal lifeline program increase as SLCs increase.

82 At the end of 1983, state commissions were faced with \$6.9 billion in pending intrastate revenue requests. By the end of 1984, the total value of pending revenue requests had fallen to \$3.7 billion; by December 31, 1985, the value of pending state rate requests was down to \$1.4 billion; and by December 31, 1986, pending revenue requests were down to a record low of \$323 million. See News Release, FCC Releases Summary of State Telephone Rate Cases, Mimeo No. 1567 (released January 20, 1987).

83 We note that several parties express a concern that the second dollar of the SLC has only been in effect since June 1986, and sufficient time to fully study its effect may therefore not have elapsed. While we recognize this concern, when we recommended the present limited SLCs in 1984 we expressly called for a reexamination of SLCs in 1986.

84 In addition, we note that ratepayers may benefit from recent changes in the federal tax laws, specifically the reduction in the corporate tax rate, which should result in substantial decreases in the LECs' total

schedule for implementing this final phase-in of SLCs for residential and single-line business subscribers includes a 90-day study period in advance of the final two increases. This will ensure effective monitoring by this Joint Board pursuant to our proposed plan, and will permit timely regulatory action in the event of any negative impact on universal service resulting from our recommendations.

47. While we have specifically addressed the universal service concerns, we believe that our recommendation for a more gradual phase-in of SLC increases will not sacrifice future progress we should achieve toward reaching our other three goals. We view our proposed increase in subscriber line charges as the linchpin in the integrated approach we are presenting in this Order to resolve all of the issues raised in the Further Notice. In particular, the increased SLC will allow for our proposed restructuring of the existing mandatory common line pooling system, discussed in detail below, by substantially limiting the disparities between CCL rates. This enables LECs to leave the mandatory pool without creating undue pressures to deaverage interstate toll rates.⁸⁵

48. A number of commenters, particularly state commissions, believe that further movement in implementing subscriber line charges may result in subscribers paying an undue proportion of NTS costs, with the IXCs paying less than their "fair share" of the cost burden. The pricing theories of other commenters and the Commission's original access charge decision call for a subscriber line charge that would ultimately recover all the interstate allocation of NTS loop costs from the end user except for high cost assistance.⁸⁶

49. We believe that our recommendation regarding NTS cost recovery strikes a proper balance among all users of the switched network. With our proposal, end users will pay for connection to the network on a flat-rate basis, thereby achieving the economic benefits of flat-rate recovery. At the same time, by maintaining SLCs at a \$3.50 cap, we will

revenue requirements. State commissions are, of course, free to deal with the reductions in intrastate revenue requirements in whatever manner they believe best serves the public. As an option, they may take this opportunity to reduce the basic local service rates charged to customers, or simply create a credit on the customer's bill, and thereby offset to some degree any impact of the increases in the SLC.

85 See discussion infra, paras. 117-119. This Joint Board is concerned about the potential adverse effects of widespread deaveraging of interstate toll rates. Thus, we recommend that the Commission continue uniform nationally averaged MTS and WATS rates for the dominant interexchange carrier.

ensure continued recovery of a substantial portion of NTS loop costs from the IXC's on a nationwide basis. Even with full implementation of SLC's in 1989, IXC's will be paying approximately 50% of the total interstate revenue requirement for those costs that are incurred by the exchange carriers independent of IXC usage of the network.⁸⁷ As a result, IXC's will not only continue to pay fully for those costs they directly cause by using the network (i.e., traffic-sensitive or directly assignable costs), but they will also continue to pay a substantial part, approximately 50 percent of the interstate allocation, of the fixed costs presently recovered through the NECA common line pool.⁸⁸

50. Additionally, we recommend that the residential and single-line business SLC in a particular study area be capped at the same level as the multi-line business SLC in that same study area. Furthermore, we recommend that LECs use the increased SLC revenues resulting from our recommendation to reduce their CCL rates according to the following principles. First, we recommend that the Commission require the LECs to apply the first \$.60 increase to the originating CCL charge, and thus limit the bypass threat on the originating end of the call, which is more susceptible to bypass. Second, with the further increases in SLCs, we recommend that the LECs consider the existing special access rates to determine the level of CCL charges necessary to limit bypass within their particular study areas.

51. Third, we believe that LECs have the responsibility to maintain some level of CCL charges on the terminating end of calls. Even with the proposed increase in SLCs, most LECs will have a number of costs that are not eligible to be recovered through SLC revenues and must therefore be recovered through CCL rates. These costs should include the

⁸⁶ See supra note 5.

⁸⁷ These costs include not only NTS local loop costs, but also other costs assigned to interexchange carriers such as CPE phase-out, inside wire phase-out, NECA expenses, certain pay telephone costs, high cost assistance, and lifeline assistance funding.

⁸⁸ We believe that the substantial costs the IXC's will be paying under our proposal adequately addresses stated concerns that IXC's pay a fair share of the interstate revenue requirement. Some commenters, in particular state commissions, suggest that IXC's continue to pay an amount based on a relative use factor, e.g. a "subscriber line usage" factor, while other commenters, specifically LECs, suggest that IXC's pay an "appropriate" portion. We recognize the concerns that IXC's should continue to pay for use of the local

revenue requirements for: 1) inside wire, which is in the process of being phased-out, but still will be part of the revenue requirement paid by the IXCs until 1993; 2) a portion of CPE, which was not detariffed under the Commission's order on detariffing of CPE; 3) pay telephone, which currently amounts to over \$500 million in interstate revenue requirement and is expected to grow in the future; and 4) Long Term Support (LTS) and (any Transitional Support (TRS)) paid by those LECs that do not participate in the NECA common line pool.⁸⁹

52. Pursuant to the pooling changes we recommend herein, all LECs that opt out of the NECA common line pool will be responsible for LTS contributions, and some LECs will be responsible for TRS (with TRS contributions ending in 1994). We recommend that the Commission require LECs to recover their LTS and any TRS contributions through a CCL rate applied on terminating access minutes. This requirement is designed to ensure that IXCs will pay reasonable CCL rates on each terminating access minute.

53. In addition to these revenue requirements, most LECs will have a residual revenue requirement for their NTS loop costs in a majority of their study areas that will not be recovered through their SLC revenues.⁹⁰ We recommend that LECs with residual NTS loop costs, not recovered through SLCs, also recover these costs primarily through terminating CCL charges.

54. Finally, we decline to adopt the suggestions by some state commissions that jurisdictional separations changes be considered at this

loop, and we believe that approximately 50% of the interstate revenue requirement constitutes a significant level of payment and is responsive to those concerns.

89 See infra paras. 99-100, 124.

90 Based on current estimates, certain study areas will have all their NTS loop costs recovered through the SLC revenues with a \$3.50 SLC in 1989. If the total interstate revenue requirement for the NTS loop costs increases

time.⁹¹ We recently instituted the 25% interstate basic allocation factor presently in the second year of an eight-year phase-in. That allocator was adopted after careful consideration of a comprehensive record, and we believe that it remains the correct approach to jurisdictional cost allocation. Moreover, we do not believe that reducing the interstate cost allocation is an appropriate response to the question of the proper approach to NTS cost recovery. Reductions in the interstate allocator will merely result in increases in intrastate revenue requirements, which may necessitate a concomitant increase in intrastate rates. These increases could potentially inhibit further progress toward attaining our goals in this proceeding and could have particularly harsh effects on rural high cost areas and many small LECs. In addition, much of the efficiency gains and other benefits we have experienced so far might be lost with such action.

over time and SLCs are not increased beyond \$3.50, an even smaller number of LECs will be in a position to recover all their NTS loop costs through their SLC revenues.

⁹¹ These suggestions were presented as an alternative to further subscriber line charge recovery from end users.

V. Federal Lifeline Assistance Measures

A. Comment Summary

55. Among the IXCs, AT&T and US Sprint support the current federal lifeline assistance program⁹² and believe that assistance to low income households is an important complement to subscriber line charges. AT&T supports increasing the matching federal benefits if SLCs are increased.

56. The individual local exchange carriers had a variety of reactions to the federal lifeline program. CP National and United Telephone state that it is too early to evaluate the lifeline program. Both NYNEX and Southwestern Bell support the existing federal lifeline program, noting that the availability of low-cost local service options and other measures to assist low income subscribers also work to preserve universal service.⁹³ Alternatively, Ameritech, Rochester, and SNET maintain that low-cost service options in their areas obviate the need for any federal lifeline assistance. Ameritech states that federal lifeline assistance is unnecessary since it is in its interest to maintain high subscribership levels. On the other hand, Puerto Rico Telephone argues that the federal lifeline assistance program should be expanded and that the Commission's

92 As discussed supra para. 11, this program consists of a waiver of the subscriber line charge for qualifying low income households in states providing certified matching assistance.

93 New York Telephone Company provides additional assistance to its low income subscribers with respect to the installation and maintenance of telephone service. These provisions include: 1) elimination of the deposit requirement for most new customers including all subscribers receiving public assistance; 2) adjusted payment schedules for subscribers with fixed incomes that reflect the subscriber's periodic receipt of income; 3) a 10-month deferred payment plan for arrears of up to \$450; and 4) a 12-month interest-free deferred payment option for non-recurring service connection charges. Southwestern Bell, in addition to its "budget," "thrift," and regular measured service options, allows residential customers to spread the initial installation charge over a fixed number of months. Additionally, it does not require a security deposit based on interexchange carrier toll billing; customers who have paid a debt to an IXC for which Southwestern Bell provides billing and collection services will not be asked for a security deposit, even though they may have a history of delinquency, and customers who are temporarily suspended for non-payment are not asked to provide security deposits based on IXC billing as a condition for restoration of service.

universal service goal should be redefined as promoting subscribership levels, not merely preserving them.⁹⁴

57. The sponsors of the Unity 1-A agreement do not support the federal lifeline assistance program as it is presently established. The Unity 1-A agreement states that lifeline assistance should be established, where necessary, on a state-by-state basis, with qualification determined by appropriate state organizations. The Unity 1-A agreement also provides that funding for lifeline assistance should be derived from sources other than telephone services, although it does not propose any specific funding mechanism.

58. While a number of state commissions commenting in this proceeding generally support continuing the present federal lifeline assistance program,⁹⁵ a few state commissions recommend some modifications to the current plan. Michigan proposes that federal assistance, which matches the amount of state-provided benefits up to the full amount of the SLC, be increased with any additional increases in SLCs. Texas contends that there should be added flexibility in the federal program; the present federal program would require it to conduct administrative proceedings for each of the 72 LECs operating in Texas, in addition to obtaining legislative approval, before it could qualify for federal funds.⁹⁶ California maintains that the federal lifeline assistance program should not require verification of subscriber income or other eligibility criteria as a prerequisite for qualifying for the full federal assistance. It recommends that the federal program permit the state lifeline program to contain provisions for self-certification.⁹⁷

94 Puerto Rico Telephone maintains that because 75% of its population lives below the poverty level and only 50% of its population has telephone service, it is unable to take advantage of the matching federal lifeline program since it would essentially require subsidizing certain low income households by increasing the charges that other low income families pay.

95 These include commissions in Pennsylvania and Michigan.

96 Texas notes that it has approved a discount rate for Southwestern Bell customers, which is not subject to any means test as required by the federal lifeline assistance program. It argues that the federal program should be more flexible and allow for the development of programs, like this discount rate, that it believes may be better suited to achieving the goal of universal service in particular areas.

97 Pacific Bell supports California's request for elimination of the verification requirements for the federal lifeline assistance program. In contrast, US West contends that verification of eligibility must be a part

59. Furthermore, the District of Columbia argues that it is too soon to evaluate the federal lifeline assistance program since it was only established in early 1986.⁹⁸ In late-filed comments to the Further Notice, the Vermont Public Service Board (Vermont) presented a proposal that included a revised federal lifeline assistance fund.⁹⁹ In deriving its proposed lifeline fund, Vermont reviewed the Census Bureau's data regarding telephone penetration and poverty levels, and estimates \$75 million as a reasonable, conservative estimate of the lifeline funding that should be provided annually by mandatory pooling.¹⁰⁰ The proposal did not specify how

of any certified state lifeline assistance plan. It argues that, while states are allowed to devise whatever social policies their citizens may approve, they should not be allowed to pass the costs of those programs onto citizens of other states. Furthermore, US West claims that California has not offered facts to support its conclusion that there has been no abuse of the California lifeline program as a result of its provision for self-certification of income eligibility.

98 The District of Columbia notes that its lifeline program was only implemented in June 1986, and states that it is as yet unable to draw any conclusions about the effectiveness of its plan.

99 Even though Vermont submitted its comments on October 28, 1986, almost one month after the close of the pleading cycle for the Further Notice, we will consider the proposals raised in them, since no party will be prejudiced by such consideration and it will aid us in completing a full disposition of all relevant issues. In its comments, Vermont proposed that the mandatory common line pool be dissolved within two years and replaced with a mandatory contribution for a revised high cost fund, lifeline assistance and separations transitions. The high cost fund proposal is discussed infra para. 82. Regarding the separations transition element of its plan, Vermont maintains that several recent separations changes, which shift dollars to the intrastate jurisdiction, have been accompanied by transitions over reasonable time periods. Vermont contends that these transitions (e.g., the revenue needed to fund the transition to the nationwide 25% basic allocator was estimated at \$1.409 billion in 1985, declining to \$24 million in 1993) should continue to be funded through mandatory contributions. As the Vermont proposal was late-filed, no parties have had an opportunity to comment on it.

100 To arrive at this number, Vermont first estimated that under the present federal lifeline assistance program, the maximum "exposure" would be \$242.7 million per year in reduced CCL charge revenues (\$2 per month for those low income households with telephones (85% of 11.9 million low income households based on March 1985 census figures in 50 states). It then

these funds would be collected or distributed.

60. Several consumer groups contend that the federal lifeline assistance program is not effective.¹⁰¹ Specifically, they argue that the program does not reach a majority of those who need assistance. NASUCA thus concludes that the Commission should focus on maintaining reasonable local rates rather than on establishing a federal lifeline program. AARP, on the other hand, supports increasing the federal assistance measures and makes specific suggestions for additional benefits in such areas as connection and installation charges, and free local calling, as well as assistance with the basic local flat-rate service charge. UCCOC also suggests similar goals and changes to the lifeline assistance program.¹⁰² While the CFA argues that the Commission must implement a more comprehensive lifeline program, it does not offer a specific proposal. However, it does contend that none of the certified state lifeline assistance programs offer any reduction in the high costs of installation, connection or deposits, which it views as obvious barriers to low income subscribership.¹⁰³

61. The Ohio Office of Consumer Counsel recommends that lifeline assistance be available as a one-time waiver of \$24.00 (and not restricted to a monthly waiver) to counterbalance non-recurring service

assumed what it viewed as a more realistic figure for participation in the lifeline program (15 states including 40% of the U.S. poverty population, and with 1/3 of those states offering only a partial credit (40% of 85% of 11.9 million poverty households with an average credit of \$18 per year)) and arrived at an estimated \$72.8 million federal lifeline fund requirement.

101 These groups include AARP, Consumers' Councils, the District of Columbia Office of the People's Counsel, the NASUCA and the UCCOC.

102 These include: 1) setting an eligibility level at 125% of the federal poverty level; 2) allowing for a minimum of 100 calls per month without added charges in areas with measured or message service; 3) waiving connection or reconnection fees or allowing deferred payment plans for these charges; 4) decreasing rates for pay telephones and allowing incoming calls on these phones; 5) providing for advertising of the availability of the assistance program; and 6) allowing for self-verification of eligibility.

103 Additionally, CFA asserts that two of the certified state programs offer lifeline assistance only to the elderly, although it also argues that the Commission should allow states to decide for themselves whether any eligibility requirements beyond self-certification are necessary or appropriate.

installation charges and customer deposit requirements. Furthermore, it suggests that the Commission should allow for SLC waiver applications by individual subscribers and not just limit them to states or LECs, and that these waivers should not be tied to any matching state assistance.

62. Among user groups and government agencies, Ad Hoc, ICA, and NTIA support the current federal lifeline assistance program. DOJ suggests that lifeline assistance should be funded from general tax revenues rather than through interstate toll charges. CWA, however, states that Congress has already rejected the idea of general public funding for the federal lifeline assistance program.

B. Discussion

63. In late 1985 we recommended, and the Commission subsequently adopted, the existing federal lifeline assistance program in order to preserve universal service and promote subscribership among low income households.¹⁰⁴ We recommended this program because subscribership levels among low income households, while stable, remained below the national average. Since January 1986, ten states and the District of Columbia have been certified for full assistance under the federal program,¹⁰⁵ and many more are moving toward adopting a state lifeline program and requesting federal certification.

64. In the Further Notice, the Commission requested an evaluation of this program and recommendations for further action. As many of the certified state plans are just beginning to take effect, it is not possible to draw any final conclusions about the effectiveness of the plans at this time. We do believe, however, that this program is a properly targeted response to our concerns regarding the general level of subscribership among low income groups as we proceed with the implementation of subscriber line charges. We are confident that the federal lifeline assistance program will continue to expand with more low income telephone subscribers receiving these lifeline benefits.

¹⁰⁴ See supra note 11 and accompanying text.

¹⁰⁵ Certified lifeline programs are in operation in Arizona, Arkansas, Colorado, the District of Columbia, Hawaii, Maryland, North Carolina, Oregon, Utah, Vermont, and West Virginia. Additionally, both California and New York have lifeline assistance programs pursuant to the initial federal subscriber line charge waiver proposed in the Recommended Decision and adopted in the Subscriber Line Charge Order.

65. In this Order we recommend that the current federal lifeline assistance benefits be increased to correspond with the proposed increases in subscriber line charges. The Lifeline Order states that the Commission will "provide matching assistance, up to the full amount of the subscriber line charge, for subscribers receiving benefits under a qualifying state and local telephone company assistance plan."¹⁰⁶ This language contemplates increasing the amount of the waiver should the amount of the SLC increase. For example, with a \$3.50 SLC and a matching state contribution, the present federal lifeline assistance program will generate benefits of \$7.00 per month for qualifying subscribers to offset interstate and local charges.¹⁰⁷

66. Several commenting parties sought further modification and expansion of the existing federal lifeline assistance program. We cannot endorse California's recommendation that the income verification requirement in the existing lifeline program be abandoned. This verification requirement serves two purposes: first, it ensures that those subscribers receiving the assistance are in fact eligible, thereby avoiding a situation where benefits are extracted by ineligible subscribers through fraudulent certifications; and second, annual recertification serves to update the eligibility roles to ensure that those subscribers receiving assistance have remained eligible.¹⁰⁸ We consider the verification requirement to be an integral part of the existing lifeline assistance program. For similar reasons, we do not accept Texas' request for increased flexibility in the eligibility requirements. Elimination of the means-test from the eligibility criteria for federal benefits, for example, would result in an assistance program that is no longer targeted to low income households, and susceptible to widespread abuse.

67. We also decline to adopt suggestions that the existing federal lifeline assistance program should not require any matching state assistance. We believe that requiring implementation of a state lifeline program as a prerequisite to being certified for federal benefits under the existing lifeline program ensures that qualifying subscribers receive

¹⁰⁶ See Lifeline Order, supra note 11, at para. 1.

¹⁰⁷ Benefits will be even greater if the monthly state contribution exceeds \$3.50 per month per qualifying subscriber.

¹⁰⁸ Moreover, as US West points out, since federal lifeline assistance benefits are funded through interstate toll charges, any state program that is not properly targeted would be unfairly subsidized by ratepayers in other states. It is entirely reasonable for the states that will be funding this assistance to expect that measures will be taken to ensure that benefits are directed to the intended recipients.

assistance to offset both their local service costs and the federal subscriber line charge. This approach fairly distributes the responsibility for preserving telephone penetration levels to both the federal and state jurisdictions.¹⁰⁹ Finally, we recognize that DOJ's proposal that the funding for the lifeline program come from the general tax revenues is not presently feasible, although this approach is attractive in theory.¹¹⁰ At this time, we believe that federal lifeline assistance programs should be supported through increased charges for other telecommunications services.¹¹¹

68. As stated earlier, we do not believe that SLCs have had, or will have, a deleterious effect on universal service. However, a number of commenters in this proceeding have directed our attention to the effect of high non-recurring charges, such as those assessed for commencing telephone service, on universal service.¹¹² The existing federal lifeline assistance

109 The Ohio Consumer Counsel's suggestion that consumers or their representatives be allowed to file for certification was rejected on reconsideration of the Lifeline Order as infeasible to implement in light of the requirement for matching state assistance. See Lifeline Reconsideration Order, *supra* note 11, at para. 7.

110 The Unity 1-A agreement appears to include a similar proposal.

111 We recognize that there may be benefits from funding lifeline assistance through tax revenues and, of course, states are free to fund their share of lifeline benefits from any intrastate source, including general or special tax revenues. However, at the present time, the appropriation of federal tax revenues for lifeline purposes appears unlikely. Furthermore, as long as lifeline benefits are properly tailored, we believe that they can be funded through interstate toll rates without unduly affecting the efficiency gains that we should continue to obtain from more economic pricing.

112 A study prepared by the Michigan Divestiture Research Fund, sponsored in part by the Michigan Citizens Lobby, found that installation charges and security deposits were cited as the primary cause for the lack of telephone service. Similarly, in a survey of customers in Tucson, Arizona, and Salt Lake City, Utah, conducted by US West, installation and deposit costs were identified as "too high." AARP proposed a waiver of 50% of the connection and installation charges, UCCOC suggested a full waiver of the charges or deferred payment plans for these charges, and the CFA argued that high installation and connection charges, as well as high deposit requirements, are obvious barriers to subscribership by low income households.

Moreover, a recent survey conducted by CFA, AARP and AT&T indicates that almost three quarters of those without phone service perceive

program specifically provides that the state matching assistance may be provided through reduced connection charges or customer deposit requirements. Among certified programs, those in Maryland, Hawaii, Arizona, Utah, and the District of Columbia offer discounts or extensive benefits applicable to these non-recurring charges and deposit requirements. However, we believe that more can be done to directly address the problem of high non-recurring charges for low income households that are not presently on the network,¹¹³ thereby not only preserving, but also increasing, universal telephone service. Toward this end, we are adopting part of the proposals put forward by AARP and UCCOC and are recommending an additional lifeline assistance program to offset the charges assessed for commencing telephone service.

69. Specifically, we recommend a two-part program to link low income households to the network.¹¹⁴ Under the first part, the federal jurisdiction will provide assistance sufficient to pay one-half of the charges, up to a \$30.00 amount, assessed for commencing service for qualifying.¹¹⁵ Under the second part of our recommended program, where a

that they cannot afford the large front-end costs of obtaining phone service -- the installation charge and deposit. CFA, AARP, AT&T, Summary Statement, Joint Telecommunications Project (February 12, 1987).

113 Approximately 5 million low income households are presently without telephone service.

114 A lifeline assistance plan could include either or both parts of this new recommended program.

115 Under this program, federal funds could be used to offset state-tariffed charges incurred in connecting a subscriber to the network. In most cases, such charges cover the administrative costs of opening an account and the costs of turning the switch at the central office. We set the cap for federal assistance at \$30.00 based on our calculations that the national average for these charges is \$45.17 for rotary service and \$46.51 for touch tone service. Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, Trends in Telephone Service (February 2, 1987). Excluded from this assistance program are the costs of inside wiring, which have been detariffed, and security deposit requirements. We do not believe that it is feasible to structure a federal assistance program to offset security deposit requirements because the amount required for a deposit may depend on factors such as geography and an individual subscriber's credit history. As indicated above, we strongly encourage LECs to reduce or waive security deposit requirements for low income customers who do not have poor credit histories.

LEC offers a deferred payment plan for service commencement charges and it does not assess the subscriber any interest charge, federal assistance will be available to that LEC to cover the interest costs on an amount up to \$200.¹¹⁶

70. Connection assistance will be available for one telephone line per household, at a subscriber's principal place of residence. We further recommend that each state administer this service commencement assistance program within its jurisdiction in conjunction with the LECs. Before receiving federal assistance, a plan submitted by a state commission¹¹⁷ should be certified in the same manner as the existing lifeline program¹¹⁸ as meeting the following criteria to ensure that the assistance is properly targeted: 1) the customer requesting assistance has lived at an address or addresses where there has been no telephone service for at least three months immediately prior to the request for assistance; 2) assistance is available, at most, once every two years; 3) the customer cannot be a dependent (as defined by the federal income tax code) under the age of 60; and 4) the customer must meet state-determined income criteria. The first two criteria are to be verified and such verification should be easily done by using LEC records. The final two criteria may be self-certified.¹¹⁹ However, if a state determines that it is administratively or economically infeasible for a LEC to verify criteria #1 and #2, when the necessary information must be provided by a LEC or agency outside the state, or in other specified circumstances, then self-certification of these criteria will be allowed and criterion #4 must be verified by the state or LEC.

116 We assume that any deferred payment schedule will not be longer than 12 months. Also, we recommend that the interest rate used in this part of the program be determined based on the rate paid on ten-year Treasury Bills. See §67.731(a)(4)(ii) at Appendix B.

117 We recommend that plans be submitted only by the state commission or its delegatee, which could be a LEC, in order to avoid the possibility that numerous, conflicting plans for the same jurisdiction would be filed.

118 The Commission has delegated to the Common Carrier Bureau the authority to certify state lifeline plans.

119 We require the income criterion in order to properly target those in need of this assistance. In contrast to the subscriber line charge waiver measures of the existing federal lifeline programs we will allow self-certification here (except under the circumstances discussed above) because we believe that the other criteria for eligibility sufficiently reduce the potential for abuse of this program.

71. We are making one additional recommendation, dealing with the funding mechanism for this program as well as for the existing federal lifeline assistance program. This proposal is consistent with our recommendations to the Commission that it adopt, with some modifications, the proposals regarding pooling and high cost assistance set out in the Unity 1-A agreement.¹²⁰ The common line pooling modifications of the Unity 1-A agreement, which we adopt with some revisions, make no provision for continued funding of federal lifeline assistance. Therefore, in order to ensure that the federal lifeline program continues to be funded on a nationwide basis,¹²¹ we recommend that NECA bill the IXC's directly for the interstate lifeline revenue requirement, covering both the existing SLC waiver lifeline program and our recommended service commencement assistance program. IXC's that have at least 1) 1% of the "1+" or "presubscribed"¹²² common lines presubscribed to interexchange carriers in all study areas, or 2) 5% of the presubscribed lines in any study area and a minimum of 1000 presubscribed lines in that study area, will be responsible for paying lifeline assistance. A flat monthly charge assessed eligible IXC's to recover these funds will be calculated semi-annually based on all of the common lines presubscribed to eligible interexchange carriers.¹²³

72. Our proposed IXC billing allocation mechanism for lifeline funding is similar to the one proposed in Unity 1-A for the high cost fund,¹²⁴ and should be easy to administer. LEC's participating in the

120 See infra paras. 72 and 87.

121 Under present practice, LEC's in states with certified lifeline assistance plans estimate the number of lifeline subscribers, determine the resulting annual subscriber line charge revenue loss, and report that amount to the NECA common line pool as an addition to the CCL revenue requirement. Thus, absent the proposed modification for IXC billing under our recommended pooling revisions, carriers that file their own tariffs could be required to recover the cost of lifeline service within their own service areas.

122 We use the term "presubscribed" to indicate all "1+" access lines, including both Feature Group C and D services.

123 We find this funding mechanism most compatible with the balance of the recommendations we propose here. Thus, we decline to adopt Vermont's suggestion, submitted as part of its depooling proposal, that a fixed revenue amount be selected and established in a "pool" for lifeline assistance.

124 See infra paras. 75-77.

federal lifeline assistance programs should estimate and report annually to NECA the number of qualifying subscribers under all lifeline assistance programs, as well as the dollar amount of benefits per subscriber. NECA should in turn report these data to the Commission.¹²⁵

73. We believe that the additional lifeline assistance program recommended here is easily implementable¹²⁶ and should be quite effective in removing a major barrier to initiation of telephone service by low income households.¹²⁷ While we encourage states to match the direct offset of the charges assessed for commencing service, our recommended plan does not require the states to provide matching funds. Moreover, we strongly urge the states and local exchange carriers to develop deferred payment plans for service commencement charges, as well as provide reductions in, or waivers of, security deposit requirements for low income customers who do not have poor credit histories.

74. Furthermore, other measures, beyond federal and state financial assistance, are important complements to these universal service efforts. We believe that the availability of local service options, such as the various state low-cost or budget services, contribute to maintaining universal service.¹²⁸ Most of the LECs have alternative service options

125 Reports to the Commission and review by Commission staff should help ensure that these estimates and calculations are reasonable.

This new billing mechanism for lifeline, and for high cost assistance, will not become effective until April 1, 1989, when our recommended pooling changes will begin. See infra. In the meantime, funds for both the new and existing lifeline plans will be recovered through the nationally averaged CCL rate.

126 This new federal lifeline assistance program does require some separations changes to ensure that costs and revenues are properly aligned between the jurisdictions. Our proposed rule changes are contained in Appendix B.

127 We wish to stress that this additional assistance program is not intended to supplant the present subscriber line charge waiver measures of the existing lifeline program. We encourage states and LECs that have not yet implemented the existing program to develop qualifying lifeline assistance plans as soon as possible. Furthermore, we recommend that the Commission work closely with states that have already received federal certification for lifeline assistance plans to allow them to qualify quickly for receipt of additional federal funds to offset increases in subscriber line charges.

available to their customers and many of these carriers have an increasing number of customers subscribing to them. We strongly encourage all LECs to make alternative service options available and to assist in the development and administration of federal assistance measures in order to ensure that telephone service is universally available.

VI. High Cost Assistance

A. Comment Summary

75. Since many of the comments dealing with high cost assistance focused on the specific proposal set out in the Unity 1-A agreement, we will briefly describe it here. Under the Unity 1-A proposal the high cost assistance formula would be retargeted to give additional benefits to LECs with fewer than 200,000 access lines and to decrease assistance to LECs with greater than 200,000 access lines.¹²⁹ The sponsors of Unity 1-A claim, based on 1985 NECA figures, that their targeting of the high cost measures

128 According to a recent AT&T survey, all states and the District of Columbia offer such services. See AT&T, Local Exchange Rates (March 10, 1987) (a periodic survey conducted by AT&T on a state-by-state basis identifying the lowest local exchange tariff rates in effect).

129 "Small and medium-sized" LECs (those with 200,000 or fewer lines) would be divided into three categories: (i) those with loop costs equal to 0-115% of the national average loop cost would be allowed no additional allocation of costs to the interstate jurisdiction; (ii) those with loop costs equal to 115-150% of the national average would be allowed an additional interstate allocation of 65% of the costs in that band; and (iii) those with loop costs greater than 150% of the national average would be eligible for an additional interstate allocation of 75% of those costs. Large companies (those with more than 200,000 lines) would be divided into five categories: (i) those with loop costs equal to 0-115% of nationwide average loop costs would be allowed no additional interstate allocation; (ii) those with loop costs of 115-160% of the national average would be allowed an additional interstate allocation for 10% of the costs in that band; (iii) those with loop costs between 160-200% of the national average would be allowed an additional interstate allocation of 30% of the costs in that band; (iv) those with loop costs equal to 200-250% of the national average would be allowed an additional allocation of 60% of the costs in that band; and (v) those with loop costs greater than 250% of the national average would be eligible for an additional interstate allocation of 75% of the costs in that band.

will decrease the overall size of the high cost fund from \$448 million to \$390 million, an approximate reduction of \$58 million. They also maintain that the proposed changes will increase from 53% to 83% the proportionate share of high cost fund assistance paid to LECs with less than 200,000 lines.

76. The Unity 1-A proposal further provides that the high cost assistance formula be reviewed in the future if it appears that other factors, such as separations changes, would create unreasonably high rates for local service. In addition, because of the pooling revisions proposed in the Unity 1-A agreement,¹³⁰ the IXC's will be billed directly for high cost funds through a separate pool administered by NECA with the charges based on the proportion of each IXC's "1+" access lines.¹³¹

77. The Unity 1-A sponsors assert that their high cost assistance proposal: 1) simplifies the pooling and cash flow operations by separating high cost assistance from the CCL rate; 2) avoids calculating a high cost assistance charge for each LEC when several LECs may have diverse rate structures; 3) continues the practice of recovering high cost assistance funds from IXC's; 4) centralizes billing and collection for these funds; and 5) promotes and emphasizes the national interest in maintaining universal service.

78. IXC's did not have extensive comments addressed to the high cost assistance issues. AT&T supports Unity 1-A's retargeting of high cost assistance, claiming that the revision is fully consistent with the Commission's purpose of assuring that telephone rates remain reasonable even in high cost areas. US Sprint generally notes that the high cost assistance program should have narrowly drawn guidelines so that the level of assistance does not exceed the amount required to target subsidies to specific firms. Consequently, US Sprint argues that the level of the firm-specific subsidies should be dependent on the economic characteristics

¹³⁰ See infra paras. 98-100.

¹³¹ The Unity 1-A proposal further provides that only those IXC's with over 1% of the "1+" access lines (i.e., those lines provided by premium access services, Feature Group C and D services) will be billed for the high cost fund. Each LEC would report to NECA the number of "1+" access lines associated with each IXC serving a study area. NECA would compute and assess the charge on an annual basis, and administer the fund, including the direct billing to the IXC's as well as the distribution of revenues to qualifying LEC's.

as well as the NTS loop costs in each LEC's service area, recognizing distinctions between urban and rural, and large and small, LECs.

79. In general, the LECs express strong support for the high cost assistance proposal in the Unity 1-A agreement. While Ameritech maintains that the Unity 1-A proposal is presently sufficient to assist the high cost LECs, it argues that at some point the high cost fund should be modified to eliminate support for the high cost study areas of the large LECs. In this regard, Ameritech proposes that the eligibility requirements include criteria that would evaluate the current circumstances of the LEC before determining whether the LEC is eligible for high cost assistance. For example, Ameritech suggests criteria such as an evaluation of a LEC's pricing structure, the availability of lifeline assistance for its customers, and an evaluation of the company's local rate levels. Cincinnati Bell contends that only those companies remaining in the voluntary pool under the Unity 1-A proposal should receive high cost assistance. SNET continues to support high cost assistance but maintains that the measures should be subject to continual review to ensure limited and properly targeted support.

80. In its separate comments, OPASTCO, one of the Unity 1-A sponsors, proposes an additional mechanism that would provide further assistance to LECs with 50,000 or fewer access lines. The proposed formula is designed to assist small LECs in absorbing the cumulative effect of all cost shifts to the intrastate jurisdiction.¹³²

81. Among the state commissions, Arkansas expresses support for the Unity 1-A proposal for high cost assistance,¹³³ although it argues that

¹³² The OPASTCO plan would provide for an additional interstate cost allocation for a carrier if, after calculating a surrogate number for the cost of basic local service over a two year consecutive period: 1) the surrogate rate calculated for the second year exceeds the first year's calculation and equals or exceeds \$14.00; and 2) the increase in costs during the second year exceeds by 20% the number calculated for the first year. Then, any increase above the 20% could be recovered from the OPASTCO high cost fund. This proposal is supported by Waitsfield-Fayston Telephone Company, et al., and Lackavaxen Telephone Company, which maintain that the current high cost formula fails to protect smaller LECs from the cumulative effects of NTS cost shifts to the local jurisdiction resulting from recent federal decisions.

¹³³ Arkansas recommends, however, that the high cost assistance formula proposed in the Unity 1-A agreement be changed to be consistent with Arkansas' proposal to move from the 25% basic interstate allocator to a SLU-based interstate allocation. See supra note 40.

the eligibility requirements should include some consideration of the differences among geographic areas. Consequently, it proposes that eligibility for this assistance should be evaluated based on current local service rate levels rather than on LEC size. NTCA argues that high cost assistance should not be tied to local rates. It maintains that including an evaluation of local exchange rates as a criterion for eligibility would necessarily have to include some determination concerning the size of the local calling area, the community of interest, and short-haul toll rates. NTCA contends that such a complex rule would be impossible both to construct and implement.

82. As part of the proposal it submitted in late-filed comments, Vermont presented a revised high cost assistance mechanism. To qualify for support under the Vermont plan, a LEC must have a composite index of at least 115% of a national average index. The index would be composed of three equally weighted factors — density,¹³⁴ cost,¹³⁵ and basic local rates.¹³⁶ The high cost fund proposed by Vermont would be of indefinite duration and additional support from a mandatory common line contribution would be available for LECs that have not yet modernized.¹³⁷ Other state

Michigan expressed general support for retargeting high cost assistance to smaller, high cost LECs but did not comment on the specific changes suggested in the Unity I-A proposal.

134 The "density" factor is composed of two subfactors, the first reflecting necessary outside plant costs by dividing the number of subscribers by the number of route miles, and the second reflecting switching costs by dividing the number of subscribers by the number of central offices. These two subfactors are normalized to reflect the fact that line measure is often two orders of magnitude (100x) greater than office density, and the factors are then weighted according to the relative amounts of central office investment and local outside plant investment.

135 Vermont contends, without further explanation, that the cost factor can be measured by the current measurement of the level of NTS costs, claiming that the level of NTS costs appears to be directly correlated to rapid growth.

136 This is the lowest (or highest) flat rate for local service available to a residential customer in a study area (or a derived rate if no flat rate is available). Vermont argues that including basic local service rates in the index provides the most support for those LECs that already have high rates and requires those with low rates to bring their charges more in line with the national average before support is provided.

137 In a subsequent pleading, late-filed on December 15, 1986, Vermont

commissions were silent on proposed changes to the high cost assistance measures.

83. Among user groups, Ad Hoc contends that the assistance provided through the high cost fund is totally untargeted, since there never has been any demonstration that a customer's ability to afford telephone service is in any way correlated with whether the LEC serving them experiences high costs. Ad Hoc concurs in any efforts to direct the assistance more accurately to those customers in need of it, but is not convinced that the Unity 1-A proposal will accomplish that objective. Finally, both DoJ and NTIA support Unity 1-A's retargeting of high cost assistance, although NTIA believes that incentives should be built into the system to encourage LECs to operate efficiently. NTIA also suggests that supplemental support be provided to small LECs based on certain objective criteria related to local service rate levels.

B. Discussion

84. In 1983, this Joint Board first recommended certain jurisdictional separations changes to assist subscribers in areas of the country that have high NTS loop costs.¹³⁸ These high cost assistance measures, adopted by the Commission,¹³⁹ permit study areas with higher than average NTS loop costs to allocate certain additional costs to the interstate jurisdiction (above and beyond the basic interstate allocation). These costs are presently recovered through usage-based charges paid by the interexchange carriers. This assistance is designed to reduce the intrastate cost allocation and thereby keep local service rates lower than they otherwise would be in high cost areas.

submitted additional data on the economic effects of its high cost fund proposal. In that filing, it modified its original proposal by deleting the incentive for modernization and by providing a simpler method for measuring density.

138 Amendment of Part 67, Second Recommended Decision and Order, 48 Fed. Reg. 46,556 (1983). This recommendation was made in conjunction with our recommendation for a transition to a basic 25% interstate allocation factor for local NTS loop costs.

139 Amendment of Part 67, Decision and Order, 96 FCC 2d 781 (1984). The original high cost assistance measures were modified slightly in our previous examination of the issues being considered here. See Recommended Decision, supra note 9, at paras. 46-73.

85. In the Further Notice, the Commission requested comments on the effectiveness of the present high cost assistance program and recommendations for further action. Since the high cost fund is being phased-in over an eight-year period and 1986 was the first year of that phase-in, the record provides a limited amount of information regarding the effectiveness of the present program. Nevertheless, we believe that the rationale for our original proposal for high cost assistance remains valid, and we continue to support high cost assistance as a sound means of fostering universal service. As a rule, many of the factors that result in high loop costs, such as population density and geography, are beyond the control of high cost companies. The additional adjustment allowed pursuant to the high cost fund alleviates the need to recover some of those high loop costs through increased local service rates. We believe that measures, such as high cost assistance, designed to ensure that local service rates remain at reasonable levels throughout the country, represent an important aspect of our program to preserve universal telephone service.

86. A number of commenting parties proposed changes in certain aspects of the existing high cost fund. We support the proposal to retarget the current high cost fund as outlined in the Unity 1-A proposal and recommend that the Commission adopt that proposal with some minor modifications. In fact, this modified proposal is similar to a formula we previously considered during our examination of high cost assistance measures in 1984. We rejected this particular formula at that time because we believed that further study was necessary. Retargeting the high cost fund as now recommended will provide an additional interstate expense allocation for the small companies most in need of assistance and direct less assistance to the larger LECs, i.e., carriers with over 200,000 access lines, that have more flexibility in dealing with above-average costs.¹⁴⁰ In light of this retargeting of assistance toward smaller companies, we can reasonably conclude that this new formula, while perhaps not perfect, represents an improvement over the existing high cost assistance formula.¹⁴¹

87. We also adopt the basic approach for recovering high cost funds proposed in the Unity 1-A agreement, with some modifications. First, as with funding for the federal lifeline assistance programs,¹⁴² IXC's that have at least 1) 1% of the total common lines presubscribed to interexchange carriers in all study areas, or 2) 5% of the presubscribed lines in any

¹⁴⁰ The proposal will also decrease the full amount of the high cost assistance funding by an estimated \$58 million.

¹⁴¹ This new formula will become effective on September 1, 1988.

¹⁴² See supra para. 71.

study area and a minimum of 1000 presubscribed lines in that study area will be responsible for paying high cost assistance. A flat monthly charge assessed eligible IXC's to recover high cost funds will be calculated semi-annually based on all of the common lines presubscribed to these interexchange carriers.¹⁴³ The Unity 1-A proposal limits responsibility for providing high cost funds to only a few of the largest IXC's. We believe that our modification more fairly distributes the responsibility for high cost assistance funding among a greater number of the IXC's, and takes into account the fact that while on a nationwide basis an IXC may not have a substantial presence, it could be a dominant carrier in a particular area. Second, we do recommend that the IXC payments be calculated every six months rather than on a yearly basis as proposed in Unity 1-A. We believe that calculating these payments on a semi-annual basis is preferable to reflect possible changes in the market share of the different interexchange carriers due to competition in the interexchange market.¹⁴⁴

88. We do not recommend, as some commenters suggest, a change in the current eligibility requirement for high cost assistance. We find that the current eligibility requirement, based on the average loop costs of the study area, is a reliable criterion for determining which LECs require high cost assistance. It also has proven to be administratively feasible to implement. Furthermore, we agree with NTCA that including additional evaluation criteria, such as local exchange rates, would require a subjective determination of the value of the local calling area size, the community of interest, short-haul toll rates and other similar factors. Eligibility criteria based on all of these factors would create a complex assistance mechanism that would be difficult to construct and implement.

89. Similarly, we conclude that requiring certification that a LEC has considered pricing options and other self-help alternatives before it could receive high cost assistance unnecessarily complicates the high cost assistance program. However, because we are concerned that these high cost measures do indeed remain properly targeted, we recommend that the Commission direct NECA to file annual reports that detail current NTS loop costs and high cost assistance for each study area, as well as trends in the growth of loop costs and the distribution of the high cost funds, to allow careful monitoring of the effects of the revised formula. As we

143 This funding mechanism for high cost assistance will become effective, along with our recommended pooling revisions, on April 1, 1989. Until that time, the high cost fund will continue to be recovered through the CCL rate.

144 Arkansas suggests that the assistance should be calculated on a quarterly basis. We do not perceive the need to require this administrative burden and believe that a semi-annual basis will be sufficient to make any necessary changes in the IXC's payments.

stated in the Recommended Decision, we strongly urge all of the state commissions to ensure that the benefits of the high cost assistance measures accrue to local ratepayers as intended (i.e., to keep local service rates lower than they otherwise would be).

90. Finally, we conclude that OPASTCO's proposal for additional high cost assistance for the small LECs, i.e., carriers with 50,000 or less access lines, should not be adopted. The OPASTCO proposal is designed to provide an additional allocation to the interstate jurisdiction to help small LECs recover increases in local revenue requirements due to recent changes in the separations procedures. We find that the Commission and the Joint Board have already considered the impact of the revenue requirement shifts resulting from these separations changes in recommending and adopting them. Therefore, we conclude that additional assistance does not appear to be appropriate at this time.¹⁴⁵

¹⁴⁵ We note that in a separate action today, we recommend measures for the allocation of Category 6, Central Office Equipment, costs that ensure a lengthy transition for the reallocation of a portion of these costs to the intrastate jurisdiction and that provide an additional interstate allocation of costs for LECs serving fewer than 50,000 access lines. Recommended Decision, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, CC Docket Nos. 78-72 and 80-286, FCC 87- (1987). Other separations changes, such as the movement to the 25% gross allocator and the removal of inside wire costs, which OPASTCO contends are shifting revenue requirements to the intrastate jurisdiction, are being phased-in over a transitional time period in order to avoid the rate effects that the OPASTCO plan apparently seeks to address.

VII. Common Line Tariff and Pooling

A. Pooling Proposals and Comments

91. The Further Notice requested comments and recommendations on possible modifications to the mandatory pooling of common line costs and revenues. It stated that these pooling issues should be considered in the context of possible modifications to SLCs and high cost assistance measures as part of an integrated proposal for further action. These general pooling issues had been raised in petitions filed by Bell Atlantic and New Jersey in late 1985.¹⁴⁶ The Further Notice directed us to consider these petitions as part of this broad proceeding because they raise issues relating to potential modification of the existing mandatory pooling mechanism.

1. Bell Atlantic and New Jersey Petitions

92. In its October 1985 petition, Bell Atlantic asserts that modifications to the current pooling arrangement are necessary. The Bell Atlantic plan would replace the current nationwide, uniform CCL charge developed through the CCL pooling process with three sets of charges. First, LECs would establish a "primary element," a charge set at a level sufficient to recover its own common line revenue requirement, but not to exceed the existing CCL rate.¹⁴⁷ Second, a transitional surcharge element would be developed based on the "excess costs" above the existing CCL "cap" that would be reported to NECA.¹⁴⁸ Third, a per minute high cost fund charge would be assessed. The primary element would be increased each year to the previous year's maximum rate (the primary element plus the transitional surcharge plus the high cost fund charge).

146 Bell Atlantic and New Jersey submitted separate petitions in October 1985 and November 1985, respectively, requesting changes in the Commission's Part 69 access charge rules to reduce the degree of, or eliminate, mandatory pooling of common line costs. These petitions and the comments filed in response thereto were referred to this Joint Board for consideration and development of recommendations. Petitions of Bell Atlantic and the New Jersey Board of Public Utilities, RM No. 5205, Mimeo No. 4622 (released May 21, 1986).

147 At the time the petition was filed, the CCL rate was a uniform 4.33 cents per minute.

148 At the time it filed its petition, Bell Atlantic estimated that a .5 cent per minute of use surcharge would be necessary with a \$2.00 SLC.

93. In its petition, New Jersey asserts that bypass is a major threat in its state and that depooling represents an effective tool to combat it. New Jersey endorsed three possible approaches to depooling: (1) the Bell Atlantic proposal; (2) total elimination of the NECA pool with a move toward cost-based pricing of services; or (3) a cap on the maximum contribution that any one state makes to the NECA pool, which would be phased down over time.

94. While most parties commenting in response to the Further Notice did not specifically address these two petitions, we will briefly summarize the comments submitted on them during the initial pleading cycle established in response to the petitions.¹⁴⁹ Among the BOCs, Ameritech, BellSouth, and US West supported the Bell Atlantic and New Jersey petitions, with US West proposing two transition plans for ending pooling, one involving increasing the SLC and the second involving a percentage phase-down in total pool contributions. Pacific Bell and Southwestern Bell opposed the petitions and instead supported the flat-rate IXC recovery of NTS costs, consistent with other petitions pending before the Commission at that time proposing alternative common line cost recovery rate structures.¹⁵⁰ NYNEX expressed concern that the Bell Atlantic plan would increase uneconomic bypass for those companies with near-average or greater-than-average costs. Bell Atlantic countered that these companies would only be paying slightly more under its plan than under the present system.

95. Among the independent telephone companies, the GTOCs proposed certain revisions to the Bell Atlantic plan. They suggested eliminating the

149 It appears that many of the views expressed in these comments have been superseded by subsequent comments submitted by the same parties in response to the Further Notice. In fact, Bell Atlantic itself subsequently filed comments in support of the pooling proposal contained in the Unity 1-A agreement. The District of Columbia, however, expressed continued support for the Bell Atlantic depooling plan, and Florida stated that careful consideration should be given to both petitions.

150 Pacific Bell submitted a waiver petition to implement such a plan at the same time that the Bell Atlantic and New Jersey petitions were filed. This petition subsequently was denied, as were similar petitions filed by a number of LECs. See Petitions for Waiver of Various Sections of Part 69 of the Commission's Rules, filed by Mountain States Telephone and Telegraph Company, et al. FCC 86-145 (released April 28, 1986) (Interim NTS Guidelines Order), on reconsideration, FCC 86-527 (released January 7, 1987) (Guidelines Order Reconsideration).

transitional surcharge and replacing it with a fixed charge upon IXCs. United also proposed some modifications to the Bell Atlantic plan, suggesting that the transitional surcharge level should decrease as SLCs are increased. Cincinnati Bell supported Bell Atlantic's petition, while SNET noted that a gradual reduction in pooling was necessary. Smaller LECs and independents maintained that further study of depooling was necessary, particularly concerning the impact of depooling on CCL rates and bypass. Among the LEC associations, NTCA strongly opposed the Bell Atlantic plan, while OPASTCO and USTA simply suggested referring the issue of depooling to the Joint Board.

96. Of the state commissions, Delaware, the District of Columbia, Maryland and Virginia all supported the Bell Atlantic and New Jersey depooling petitions. Other state commissions criticized the Bell Atlantic and New Jersey plans as being inadequately supported, and requested further review by the Joint Board. NTIA generally supported the depooling proposals, claiming that pooling is economically inefficient. Concerns that depooling will lead to interstate toll rate deaveraging are not well founded, NTIA argued, noting that access pricing variations have existed for a long time and rate deaveraging has not occurred.

2. Other Pooling Proposals

97. Two pooling proposals were filed in response to the Commission's Further Notice, one by the LEC industry associations and another by Vermont. The Vermont proposal was part of Vermont's comments in this proceeding.¹⁵¹ The LEC industry associations presented a detailed proposal for pooling modifications as part of the Unity 1-A agreement.

98. The pooling modifications proposed by the LEC industry associations call for the replacement of the present mandatory common line pooling system with arrangements that the agreement characterizes as a "voluntary" common line pool¹⁵² and a "mandatory" long term support (or LTS) fund¹⁵³ that will enable those remaining in the pool to charge IXCs

¹⁵¹ See supra note 99.

¹⁵² This voluntary pool concept would permit carriers to opt out of the nationwide NECA common line tariff and file their own CCL rates.

¹⁵³ NRTA, one of Unity 1-A's sponsors, added a number of clarifying footnotes to the Unity 1-A agreement that emphasized its view that the Unity 1-A common line pooling mechanism would not totally eliminate mandatory pooling. Rather, NRTA asserts, Unity 1-A would only streamline the present mechanism to provide for "minimum mandatory pooling."

the equivalent of what would have been the nationwide average CCL rate had the mandatory common line pool been maintained. In addition, Unity 1-A establishes a four-year transitional support (or TRS) fund, which would be used to provide transitional support payments to LECs that traditionally have been net receivers under the current system but are expected by Unity 1-A's sponsors to withdraw from the "voluntary" pool.

99. Under Unity 1-A, LECs are divided into three groups: large company contributors (LCCs) that traditionally have had net revenue flows into the common line pool and, therefore, would be likely to withdraw from the existing NECA pool and file their own CCL tariffs;¹⁵⁴ large company receivers (LCRs) that traditionally have had net receipts from the present pool but, according to Unity 1-A's sponsors, would be likely to withdraw from the pool and file their own CCL tariffs; and small company poolers (SCPs)¹⁵⁵ that would be likely to remain in the voluntary common line pool. All LECs would be allowed to elect in June 1987 to remove themselves from the pool.¹⁵⁶ According to the plan, those LECs that choose not to withdraw from the pool in 1987 may choose to withdraw from the pool in subsequent years, provided they notify NECA by June 30th of the year in which they choose to file their own common line tariffs. The agreement provides, however, that in order to be eligible for transitional support, LCRs must elect to withdraw from the NECA pool in 1987 and file their own common line tariffs with a January 1988 effective date. Furthermore, all LECs that withdraw from the pool must do so on a holding-company basis and remove all study areas from the pool.

154 As administrator of the mandatory common line pool, NECA presently files a single common line tariff in which all LECs are required to concur. The revenues received under that tariff are used: (1) to compensate NECA for its administrative expenses; (2) to allocate high cost assistance to qualifying study areas; (3) to compensate average schedule companies in relation to use of their facilities in originating and terminating interstate telecommunications services; (4) to reimburse LECs settling on the basis of cost studies for the expenses related to providing interstate common line services; and (5) to provide an identical earned rate of return on the interstate common line investment of each exchange carrier.

155 The same basic provisions that apply to the LCCs and LCRs would apply to any "small companies" wishing to leave the pool. However, the proposal assumes that these LECs would remain in the pool.

156 Under the plan, LECs withdrawing from the pool would file their individual common line tariffs on October 1, 1987, to be effective January 1, 1988.

100. The Unity 1-A LTS fund is designed to support LECs remaining in the NECA pool, enabling them to charge a CCL rate at a level approximately equal to the nationwide average charge that would have existed had all LECs been required to remain in the existing common line pool.¹⁵⁷ All LECs that elect to withdraw from the pool will pay LTS.¹⁵⁸ NECA will calculate the annual LTS payments for the nonpooling LECs and bill them on a monthly basis.¹⁵⁹ Transitional support payments from the LCCs will assist the LCRs that withdraw from the pool. Unity 1-A proposes a four-year transition period, with the amount of TRS payments decreasing 20% each year until they are eliminated.¹⁶⁰ As envisioned by Unity 1-A, the post-transition common line pool members would include only those small LECs

157 NECA would be responsible for calculating the hypothetical CCL rate. The hypothetical CCL rate would be computed by dividing the revenue requirement for the carrier common line element by the annual access minutes of use for all interstate or international services that use local exchange switching facilities. This calculation would be based on the prior year historical data submitted by the participating LECs in the NECA common line tariff and data submitted by LECs that file their own common line tariffs.

158 However, during the transition period (between 1988 and 1992), only the LCCs will pay LTS, in addition to paying TRS.

159 As proposed, the yearly LTS is based on the difference between the projected revenues for the poolers (based on the hypothetical CCL rate) and the revenue requirements of the poolers. During the transition period, LCC payments will be based on the percentage contribution of that LEC in relation to the other LCCs' in 1987. After the transition period, payments will be based on the ratio of a LEC's access lines to the total access lines for all those LECs not participating in the pool.

160 Under the Unity 1-A proposal, LCRs that choose in June 1987 to withdraw from the NECA common line tariff would be provided TRS as follows: (1) 1988 -- 80% of their net receipts from the NECA pool in 1987, adjusted to reflect the \$4.00 SLC proposed by the plan (1987 adjusted frozen amount); (2) 1989 -- 60% of the 1987 adjusted frozen amount; (3) 1990 -- 40% of the 1987 adjusted frozen amount; (4) 1991 -- 20% of the 1987 adjusted frozen amount. TRS would be funded by LCCs withdrawing from the NECA tariff. For LCCs withdrawing from that tariff in 1987, TRS payments would be based on their 1987 pool contributions, adjusted to reflect the proposed \$4.00 SLC and revised CCL revenues. A LCC withdrawing from the pool after the initial election opportunity in 1987 would pay TRS based on the ratio of its total access lines to the total access lines of other LCCs paying TRS. See Joint Comments at 20-22.

that need the protection of risk sharing and other benefits of a pool managed by NECA.

101. The sponsors of Unity 1-A cite as the benefits of their proposal: (1) "price flexibility" for those who opt out of the pool, allowing them to be more responsive to competition and the needs of their own customers and to combat bypass by setting access rates closer to cost; (2) elimination of the current transfer of funds, estimated by Unity 1-A's sponsors to be approximately \$600 million, among customers served by large LECs; and (3) cost, risk, and resource sharing for those remaining in the pool. Unity 1-A's sponsors also claim that their plan serves the universal service objective by maintaining an NTS cost pool and establishing an LTS mechanism to support those "small" LECs that need the benefits of the pool.

102. Commenting LECs generally support Unity 1-A's pooling proposal because, they assert, it would eliminate unnecessary support flows among large companies, provide incentives for efficient operation, and allow them to price switched access closer to the actual cost of service in their regions.¹⁶¹ Supporters of the Unity 1-A proposal also claim that the present pooling system is an anachronism and that the subsidy mechanism inherent in that system creates a significant bypass threat. Ameritech, which traditionally has been a net contributor to the mandatory common line pool, claims that the present system requires uneconomic charges to Ameritech customers of approximately \$256 million in 1986. Two other net contributors, Bell Atlantic and SNET, contend that their customers pay \$300 million and \$25 million, respectively, to support telephone service in other states. Smaller LECs also support the Unity 1-A pooling structure. They view the Unity 1-A package as consistent with small LEC's needs and state that it is "the best framework in which to ensure universal service."¹⁶²

161 While generally supporting Unity 1-A, Southwestern Bell expresses concern that the mandatory long term support obligations that attach to LECs withdrawing from the NECA pool may create an artificial incentive to remain in the NECA pool for LECs with common line cost recovery requirements that are higher than the national average -- so-called "net recipients." According to Southwestern Bell, these LECs, which under Unity 1-A must pay LTS after the transition period ends, should not be required to make such payments if to do so would require them to charge a CCL rate above the NECA pool CCL rate. BellSouth states similar concerns.

162 See Letter from USTA Small Telephone Company Committee to Mark S. Fowler, Chairman, Federal Communications Commission (December 17, 1986); see also OPASTCO Comments at 2; Waitsfield-Fayston, et al. Comments at 7.

103. Among the LECs, only ALLTEL and CP National oppose pooling changes at this time, maintaining that price flexibility should be explored further within the present mandatory pooling requirement. CP National expresses concern that depooling will lead to toll rate deaveraging. ALLTEL and CP National also raise particular concerns with certain other aspects of the Unity I-A pooling proposal, such as how the proposal will effect the membership, control, and expenses of NECA, and how the LTS fund will be administered. ALLTEL and CP National suggest that the Commission seek further comments on whether the Unity I-A pooling proposal will actually achieve the perceived benefits.

104. ALLTEL and CP National also argue that, if the Unity I-A proposal is adopted, withdrawal from the common line pool should be permitted on a study area basis, rather than required on a holding company basis.¹⁶³ NYNEX argues, in response, that if the decision to leave the pool is not made on a holding company basis, companies will leave their high cost, less-competitive study areas in the pool. As a result, NYNEX argues, the benefits of depooling would be lost because there would be only minimal reductions in intercompany funding transfers.

105. Responding to concerns that "deaveraging" CCL rates will result in interstate toll rate deaveraging,¹⁶⁴ a number of LECs submit

183. In an ex parte presentation, CONTEL also argued that withdrawal from the NECA tariff and pool should be permitted on a study area basis. See Letter from Lawrence P. Keller, Director, CONTEL Federal Regulatory Department, to William J. Tricarico, Secretary, Federal Communications Commission, filed December 29, 1986 (notice of ex parte presentation to members of Federal Joint Board staff).

164 At present, AT&T and many other IXCs charge geographically averaged (i.e., uniform nationwide) interstate toll rates. That is not to say, of course, that services provided between the same points by different IXCs, or pursuant to the various optional calling plans offered by an individual IXC, are charged at the same rate. Generally, however, MTS and MTS-like calls in the same mileage band are charged at the same rate throughout the country. Even though LEC traffic-sensitive switched access charges and IXC network operation costs may differ from area to area, these variances have not proven to be so great as to provide IXCs a sufficient economic rationale for deaveraging interstate rates.

The CCL rate, which LECs assess upon IXCs as one portion of the total charge for providing switched access service, does not currently differ among LECs because mandatory participation by all LECs in the NECA common line tariff and pool results in a uniform nationwide CCL rate. Due to varying common line cost recovery requirements among LECs, however, CCL rates would vary in the absence of pooling, particularly in rural and

that the threat of interstate toll rate deaveraging is insignificant under the Unity 1-A pooling proposal. NYNEX maintains that once the Unity 1-A plan is fully implemented, the LTS fund would allow smaller LECs in the pool to charge a CCL rate that would not exceed a non-pooler's effective CCL rate by more than \$.01 per minute of use, an amount that would minimize any rate disparities. Rochester argues that deaveraging pressures resulting from fairly small differences in CCL rates probably are overstated, noting that even though traffic-sensitive charges presently vary among LECs, AT&T has not deaveraged its interstate toll rates.

106. The IXC's submitted only minimal comments regarding proposed modifications to the present mandatory common line pool. AT&T did note that if the existing pooling mechanism is eliminated or substantially revised, and IXC's are charged CCL rates based upon the study-area-specific NTS costs of individual LECs, it may be forced to initiate tariff revisions reflecting geographically deaveraged interstate toll rates in response to rate deaveraging initiatives by its competitors in the interexchange market.

107. Some state commissions, including those in the District of Columbia, Illinois, Florida, and Pennsylvania, express support for the general concept of modifying the current mandatory pooling mechanism. Florida indicates that a mandatory pool may be necessary only to support a high cost fund. Pennsylvania suggests that all LECs should move toward billing and collecting their actual costs over a reasonable period of time. Other state commissions express concern that depooling would harm universal service and lead to interstate toll rate deaveraging, and question whether depooling would remove bypass incentives. Missouri requests further study of pooling alternatives, noting that it is not necessarily opposed to pooling changes but is concerned that uniform interstate toll rates continue.

108. As noted previously, Vermont advocates eliminating the current mandatory common line pooling system. Vermont asserts that this system is no longer related to any rational purpose and should be "dissolved with no more than a two year transition."¹⁶⁵ Vermont proposes to replace

certain other areas of the country, where LEC common line cost recovery requirements tend to be significantly higher than the national average. Several commenters expressed concern that in an environment in which LECs tariffed CCL rates reflect dramatically different common line costs, IXCs might deaverage their interstate toll rates, forcing subscribers in rural and other high cost areas to shoulder an inordinately high common line cost recovery burden.

165 Vermont Comments at 1-2.

the present arrangement with a restructured high cost fund that would be used to provide financial assistance to high cost LECs in rural areas and to encourage such LECs to modernize their facilities.¹⁶⁶ To qualify for support a LEC would have to have a composite index over 115% of a national average index comprised of three equally weighted factors: (1) density; (2) NTS costs; and (3) basic local service rates.¹⁶⁷ According to Vermont, its high cost fund would be "supported by [a] mandatory carrier common line pool contributed to by all carriers and distributed to qualifying companies."¹⁶⁸

109. Vermont claims that elimination of the existing pooling system would not necessarily result in interstate toll rate deaveraging. For such deaveraging to occur, Vermont states, two factors must exist. First, access charges must reflect higher than average costs. Second, "a decision must be made that costs assigned to or collected from access charges would not be removed and placed in basic rates to reduce access charges."¹⁶⁹ Vermont implies its restructured high cost fund would adequately address the results of the first factor. In addition, a fundamental assumption underlying the Vermont plan appears to be that LECs would be permitted to "choose" to shift to the intrastate jurisdiction costs currently recovered through interstate access charges, and to recover such costs through basic local exchange rates.¹⁷⁰

110. State consumer counsels, consumer groups, and user groups had no comments specifically directed to pooling issues. Among government agencies, both DOJ and NTIA support pooling modifications, with NTIA specifically endorsing the Unity 1-A pooling proposal. DOJ and NTIA assert that pooling eliminates incentives for efficient operations. NTIA also

166 Vermont did not propose a blueprint for the transition from the existing pool arrangement to Vermont's restructured high cost fund.

167 The proposal also calls for "mandatory" contributions to support various policies that have been recommended by this Joint Board and adopted by the Commission, such as the scheduled transition to a 25 percent basic interstate allocation factor for the jurisdictional separations of NTS costs.

168 Vermont Comments at 5.

169 Id. at 11.

170 See id. at 11-12. Vermont also argues that interstate toll rates already are deaveraged on a de facto basis for a variety of reasons, including the lack of equal access in certain areas. Id. at 13.

maintains that mandatory pooling is becoming increasingly difficult to reconcile with the development of competition in the industry.

B. Discussion

111. As explained more fully below, we conclude that continuation of the present mandatory nationwide pooling of common line costs and revenues is not necessary to attain the public interest benefits the Commission sought to achieve in prescribing that arrangement. We also conclude that increasing federal subscriber line charges, as we are recommending, will create an opportunity to replace the existing system with a less restrictive arrangement, one that will give LECs withdrawing from the pool increased incentives for efficiency while preserving the benefits that pooling provides to rural subscribers and others served by high cost LECs. Of the available alternatives, we find that the Unity 1-A pooling framework, as altered and clarified below, satisfies public interest requirements. Therefore, we recommend that the Commission adopt and implement our proposed pooling modifications.

1. Background

112. From the mid-1940's until the advent of access charges, most LECs recovered the bulk of their interstate revenue requirement through a "pooling" process administered by AT&T known as settlements and division of revenues. This process sometimes was referred to as a "partnership" because it permitted LECs to achieve a uniform rate of return on their investment.¹⁷¹ It also helped AT&T maintain a nationwide average toll rate

¹⁷¹ The process was the product of intra-corporate agreements within the Bell System and inter-carrier agreements between AT&T and independent LECs. The process entailed the operation of a formula that enabled each LEC to recover its expenses associated with the provision of AT&T's major interstate services, primarily MTS and WATS, plus a return based upon each LEC's percentage share of total investment associated with these services. Monies were transferred monthly to reflect the difference between the "partnership" charges collected by each LEC and its share of total LEC revenues. The transfer process among Bell System Companies was called "division of revenues." The transfer process between AT&T and independent LECs was called "settlements." We refer to these processes in the singular because they were designed to operate as a single system that produced the same result for all participating companies. See MTS and WATS Market Structure, Second Supplemental Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 224, 226-231 (1980)(Second Supplemental Notice).

1128 schedule.

113. In its proceeding examining the proper market structure for the offering of MTS and WATS services, the Commission determined that the "partnership" process, as it was then structured, was inappropriate for the competitive environment being fostered in interstate services. Accordingly, the Commission proposed to eliminate the settlements and division of revenues arrangement and replace it with the access charge plan, pursuant to which the interstate cost assignment for LEC plant used in the origination and termination of interstate calls would be recovered by tariffed charges.¹⁷²

114. When the Commission outlined its present access cost recovery framework -- in which switched access costs are recovered through SLCs paid by end users and a collection of other rate elements assessed upon IXCs, including a CCL element designed to recover MTS costs and traffic-sensitive elements designed to recover costs of such LEC services as end office switching and local transport -- the Commission determined that it was not appropriate to compel LEC participation in common tariff and pooling arrangements for each of these rate elements.¹⁷³ In reaching this decision, the Commission observed that such arrangements would be detrimental in certain respects because they would limit LEC flexibility to achieve many of the primary objectives of the access charge plan, namely, efficient use of local networks, preservation of universal service, and prevention of uneconomic bypass.¹⁷⁴ Moreover, the Commission noted, many LECs did not want to participate in such arrangements because they would result in cost/price distortions and would reduce cost containment incentives.¹⁷⁵

115. Despite these concerns, the Commission concluded that a common tariff and pooling arrangement covering the CCL rate element was necessary at that time because LEC-specific CCL rates might generate

172 See *id.* at 232-237. The adoption of a system of tariffed charges for the recovery of LEC interstate costs ultimately became a mandated component of the court-ordered divestiture by AT&T of its wholly-owned LECs, the Bell Operating Companies. See *United States v. AT&T*, 552 F.Supp. 131 (D.D.C. 1982) (Modification of Final Judgment, MFJ), *aff'd sub nom.* *Maryland v. United States*, 460 U.S. 1001 (1983).

173 See *Access Charge Order*, *supra* note 4, at 326-330.

174 *Id.* at 281.

175 *Id.*

significant pressures upon IXC's to deaverage interstate toll rates. The Commission identified a number of reasons why a common tariff and pooling arrangement would reduce deaveraging pressures. Foremost among them was the ability of such an arrangement to level out otherwise substantial CCL rate disparities that would result from the varying cost recovery needs of LECs with high and low Subscriber Plant Factors (or SPF),¹⁷⁶ high and low cost LECs, and LECs with different embedded inside wire and CPE costs.¹⁷⁷ The Commission also determined that a common tariff and pooling arrangement would reduce the administrative difficulty of calculating premium/non-premium access charge differentials that were intended to off-set the lack of equal access for all IXC's to LEC facilities.¹⁷⁸ The

176 The Subscriber Plant Factor is a basis for apportioning between state and interstate jurisdictions the cost of each LEC's subscriber loop plant used for switched services. 47 C.F.R. § 67.2(b)(3)(iv). The use of this factor for jurisdictional separations was recommended by the CC Docket No. 18866 Joint Board and adopted by the Commission in 1970. See Separations Procedures, 26 FCC 2d 248 (1970). Acting upon the recommendation of the CC Docket No. 80-286 Joint Board, the Commission in 1981 froze each LEC's SPF and subsequently established a transition schedule that ultimately will result in each LEC using 25 percent as a basic interstate allocation factor for purposes of the jurisdictional separation of NTS costs. See Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, Recommended Decision and Order, CC Docket No. 80-286, FCC 81-565, released December 14, 1981, adopted by Commission 89 FCC 2d 1 (1982)(frozen SPF), aff'd sub nom. MCI Telecommunications Corp. v. FCC, 750 F.2d 135 (1984); Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, Second Recommended Decision and Order, 48 Fed. Reg. 46,556 (1983), adopted by Commission, 96 FCC 2d 781 (1984)(transition to 25 percent interstate allocation factor).

177 The access charge plan provided that the CCL charge would be the vehicle for recovering LEC inside wire and embedded CPE costs, which were being removed from LEC rate bases according to transitional phase-down schedules. See Access Charge Order, supra note 4, at 283-284; see also infra note 181.

178 At the time the access charge plan was adopted, premium access charges were designed to reflect the "opportunity cost" of preferred access arrangements. Access Charge Order, 93 FCC 2d at 286-287. A compulsory common line tariff and pool, the Commission noted, made it possible to compute this "opportunity cost" on a nationwide, lump sum basis, rather than on the basis of study areas, where differences in the quality of interconnection varied widely from place-to-place and from month-to-month. Id. at 329.

Commission concluded that common tariff and pooling arrangements were unnecessary for traffic-sensitive switched access charges because the design of these rate elements and the separations methods for apportionment of traffic-sensitive costs were unlikely to result in LEC rates that varied so widely as to cause interstate toll rate deaveraging.

116. The establishment of a mandatory tariff and pooling arrangement necessitated that some entity be created to replace AT&T in the role of preparing the tariff and administering the pool on behalf of all participating LECs. Therefore, the Commission established NECA. The Commission also observed that the creation of NECA was necessary to make the access charge plan work because most LECs had never filed any kind of interstate tariff and many were not prepared to do so. Even if the more than 1400 LECs in this category could file interstate access tariffs, the Commission observed, it would be unable to review them in a meaningful fashion.¹⁷⁹

2. Analysis & Recommendations

117. The initial decision to compel all LECs to participate in a common tariff and pooling arrangement regarding the CCL rate element was driven in large part by concerns that LEC-specific CCL charges might result in deaveraged interstate toll rates. Although the Commission prescribed mandatory pooling as a means of resolving these concerns, it recognized that the effects of pooling are not entirely beneficial. As noted in the access charge proceeding, for example, pooling limits LEC cost recovery flexibility, establishes economically inefficient cost/price distortions, and reduces LEC incentives to contain costs. Moreover, as noted by commenters in this proceeding, pooling may exacerbate uneconomic bypass incentives in low cost areas. In evaluating the pooling proposals presented to this Joint Board, therefore, we must determine whether the benefits obtained through the current system still outweigh the costs imposed by that system.

118. It is clear that the specific pressures that prompted concerns that LEC-specific CCL rates might result in sharply deaveraged interstate toll rates will be significantly diminished in the near future for a number of reasons. First, cost recovery disparities between LECs with high and low SPFs are being reduced by the Commission's decision to adopt our recommendation to move toward a 25% basic interstate allocation factor for purposes of the jurisdictional separations of NTS costs.¹⁸⁰ Second,

¹⁷⁹ Id. at 332-333.

¹⁸⁰ See Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Second Recommended Decision and

the transition schedule for the removal of embedded CPE from LEC rate bases is largely completed, and the scheduled removal of inside wire is well underway.¹⁸¹ Third, in light of subsequent changes in the method of calculating the premium/non-premium access charge differential, the concerns expressed about the difficulties of calculating the "opportunity cost" of premium access arrangements never materialized.¹⁸²

Order, 48 Fed. Reg. 46,556 (1983), adopted by Commission, 96 FCC 2d 781 (1984).

181 In accordance with the Commission's rules and orders, LECs have been phasing out their embedded CPE investment (Accounts 134 and 231) and related expenses, frozen as of December 31, 1982, by 1/60 each month until such investment and expenses are reduced to zero. See Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Decision and Order, 89 FCC 2d 1, modified, 90 FCC 2d 52 (1982). This schedule will be completed at the end of 1987. See 1986 Annual Access Tariff Order, Mimeo No. 1251, released December 24, 1986, at para. 25 (1986 Annual Access Tariff Order); 47 C.F.R. § 67.153. The amortization of embedded inside wire was ordered by the Commission in 1981. See Amendment of Part 31, 85 FCC 2d 818, 828-829 (1981). A staff analysis of 1985 data submitted to the Commission by all LECs with annual operating revenues in excess of \$1 million shows that, as of the end of 1986, scheduled amortization is approximately 60 percent completed. See Annual Reports Form M, filed December 31, 1985, at Schedule 14A (depreciation reserves). Based upon an analysis of similar LEC data submitted to the Commission in 1986, we estimate that the amortization of embedded inside wire will be more than 90 percent completed by the end of 1989.

182 As noted previously, supra note 178, the Commission concluded in the Access Charge Order that AT&T should be assessed a charge reflecting the "opportunity cost" of the premium access it received from LECs. Upon reconsideration of the Access Charge Order, the Commission concluded that a more reasonable and accurate measure of the "opportunity cost" or value of premium access would be achieved by providing IXC's receiving non-premium access a discount of 55 percent applied to the CCL rate. See MTS and WATS Market Structure, on reconsideration, 97 FCC 2d 682, 723-735 (1983). Finally, after determining that an opportunity cost analysis was sound in concept but imprecise in operation, the Commission established a total differential for all relevant access elements based on the total differential produced by the Exchange Network Facilities for Interstate Access (ENFIA) tariffs then in effect. See MTS and WATS Market Structure, on further reconsideration, 97 FCC 2d 834, 852-863 (1984), aff'd in principal part and remanded in part on other grounds, Nat'l Ass'n of Regulatory Comm'rs v. F.C.C., 737 F.2d 1093 (D.C. Cir. 1984), cert. denied, 105 S. Ct. 1224, 1225 (1985).

119. A fourth, and very important, factor that should diminish pressures to deaverage interstate toll rates is that the total amount of common line NTS costs to be recovered through usage-based CCL rates will be reduced if the Commission adopts our recommendation to increase the ceiling on interstate subscriber line charges.¹⁸³ This reduction is important because the aggregate CCL revenue requirement, as manifest in the industry-wide CCL rate, reflects the degree of potential CCL rate disparities that could occur in the absence of pooling. In 1984, for example, the year in which the CCL rate first became effective, the industry-wide rate was quite high -- \$.0524 per minute of use.¹⁸⁴ Upon implementation of the \$3.50 subscriber line charge in 1989, however, the average CCL rate (originating and terminating) is likely to be significantly lower than the 1984 rate -- approximately \$.02 per minute of use.¹⁸⁵ Therefore, although approximately 50 percent of the total interstate allocation of local exchange fixed costs will continue to be recovered from IXCs even after our recommendations are implemented, the effects of CCL revenue requirement reductions, combined with the effects of the actions discussed in the preceding paragraph that are steadily mitigating cost-recovery disparities among LECs, make it appear unlikely that LEC-specific CCL rates would generate, on an industry basis, significant pressures to deaverage interstate toll rates.

120. Against this background, we find that the Commission prescription supporting the present common line tariff and pooling arrangement is broader than is required to achieve the public interest benefits the Commission intended to secure by that prescription. Moreover,

183 Recovering the costs of lifeline and high cost assistance programs through flat-rate charges assessed on IXCs, as we recommend supra, also will slightly reduce the CCL revenue requirement.

184 See NECA Tariff F.C.C. No. 1, effective May 24, 1984; see also Investigation of Access and Divestiture Related Tariffs, CC Docket No. 78-72, Phase I, CC Docket No. 83-1145, Phase I, FCC 84-201, released May 15, 1984, at para. 79.

185 See NECA Pooling Data Request, Attachment C III, Column C, filed September 2, 1986 (1989 industry-wide CCL rate estimated to be \$.0167 per minute of use). We are using an estimate of \$.02 for the 1989 CCL rate, as opposed to the NECA estimate of \$.0167, because NECA's estimate is based on a \$4.00 subscriber line charge and has not been adjusted to account for, inter alia, growth or the stimulative effects of overall revenue requirement reductions.

we conclude that it is not in the public interest to continue that arrangement as currently structured, and that to do so would present an unnecessary impediment to the attainment of certain fundamental principles of the access charge plan, particularly the promotion of incentives to contain costs and the elimination of economically inefficient cost/price distortions.

121. Our conclusion that the existing arrangement is more comprehensive than necessary does not mean that it is unnecessary to continue some form of common tariff and pooling arrangement in the future. To the contrary, depooling, particularly precipitous depooling, could adversely affect the telecommunications marketplace and cause hardship in many areas of the country for ratepayers and LECs alike. For example, even with the actions taken by this Joint Board and the Commission in recent years to reduce cost-recovery differentials among LECs, NTS loop costs will continue to vary, often significantly, from study-area-to-study-area and from state-to-state.¹⁸⁶ Absent some form of pooling and a long term support arrangement among all LECs, these variations might impose inordinately high NTS cost recovery burdens on rural and other high cost subscribers. Unlimited depooling might also present a barrier to entry into the interstate toll market by curtailing the incentives and the ability of new entrants to establish ubiquitous, nationwide networks. Depooling certainly would eliminate the many significant benefits small LECs enjoy under the current system, including substantially reduced risks and a steady interstate return on investment.¹⁸⁷ Finally, immediate depooling would create significant administrative difficulties for the hundreds of LECs that have never before filed interstate tariffs, and for the Commission, which would have to review them. Therefore, we do not recommend that the existing, compulsory common tariff and pooling arrangement be rescinded in toto. We recommend instead that the current arrangement be replaced with one of a more flexible nature that preserves the public interest benefits of the current arrangement and limits the Commission prescription to the achievement of those benefits.

186 See NECA Submission of Current View of 1984 Universal Service Fund Data, State Summary of Unseparated Revenue Requirement Per Loop, CC Docket No. 80-286, filed September 2, 1986, at Tab 3. According to this data, for example, average unseparated revenue requirement per loop in Massachusetts is \$139.62, while in Arkansas the average unseparated revenue requirement is \$303.65.

187 See Regulation of Small Telephone Companies, Notice of Proposed Rulemaking, CC Docket No. 86-467, FCC 86-537 (released December 12, 1986) (Small Carrier Regulation Order).

122. None of the various proposals submitted for our consideration is completely in harmony with our recommendation. We cannot support the Bell Atlantic and New Jersey proposals because they contemplate, essentially, an end to all pooling in the near future. Although the supporters of these proposals are correct that an end to pooling would reduce uneconomic bypass incentives in certain areas of the country and increase economic efficiency, the elimination of pooling could have adverse consequences for ratepayers in rural and other high cost areas.

123. For several reasons, we also decline to recommend adoption of the pooling modifications proposed by Vermont. First, although Vermont proposes to replace the current pooling arrangement with a restructured high cost fund, Vermont has not provided sufficient detail about the nature or operation of the restructured high cost fund to permit us to conclude that it would be a reasonable replacement for the current arrangement. Second, and more importantly, it appears that a primary component of the plan's method of preserving what we have identified as a major benefit of the current pooling arrangement -- avoiding a situation in which inordinately high interstate NTS cost recovery burdens are placed on rural and other high cost subscribers -- is to grant LECs the flexibility to shift costs between interstate and intrastate jurisdictions, with accompanying adjustments to interstate access and basic local service rates.¹⁸⁸ The provision of such flexibility would require fundamental change in the current jurisdictional separations process, a change that we do not believe is warranted and that clearly is beyond the scope of the instant proceeding.

124. The Unity 1-A proposal also suffers from several infirmities, but these relate more to the details of the proposal than to its design. The fundamental framework of the proposal -- the phase-out of regional fund transfers among LECs due to pooling, the establishment of LTS funding for LECs remaining in the NECA CCL pool, and the opportunity to provide LECs with NTS cost recovery flexibility -- is sound.

125. A major benefit of the limited pooling arrangement proposed in Unity 1-A is the establishment of increased incentives for LECs withdrawing from the NECA tariff to reduce costs and improve the efficiency of their operations. Under the current pooling arrangement, the benefits of a single LEC's efforts to reduce costs or increase efficiency are shared with all other LECs in the pool. Reducing the degree of mandatory pooling participation, on the other hand, creates incentives to introduce efficiencies and cost-cutting measures because non-pooling LECs taking such actions will be able to benefit from them directly, through corresponding reductions in their CCL charges. Limited pooling will also eliminate

188 See Vermont Comments at 11-12.

compulsory risk sharing among the LECs that withdraw from the NECA tariff, as well as the approximately \$600 million support transfer among the the largest LECs due to pooling. Most of the LECs that Unity 1-A represents will withdraw from the NECA tariff and pool in 1988 have more than 300,000 access lines and \$150 million in annual operating revenues.¹⁸⁹ No evidence has been presented in this proceeding, nor are we aware of any, that would provide a basis for concluding that LECs of this size face risks sufficiently large that the public interest requires them to participate in risk sharing (i.e., pooling) arrangements. Moreover, as noted previously, the combination of actions already taken by the Commission at our request, and those recommended herein, substantially reduce the need to continue pooling support transfers among these LECs.

126. By establishing an intra-industry support mechanism enabling LECs remaining in the CCL pool to charge a CCL rate no higher than the rate that would prevail if mandatory pooling of all CCL costs were maintained, the proposed Unity 1-A framework also addresses concerns about the potentially adverse impacts of pooling modifications on rural and other subscribers served by high cost LECs. The adoption of this aspect of Unity 1-A is important because it will ensure that the benefits attained by permitting certain LECs to withdraw from the existing pooling arrangement will not be outweighed by the potentially negative affects of such withdrawals on ratepayers throughout the country, and particularly those ratepayers served by LECs that continue to participate in the NECA CCL tariff.¹⁹⁰

127. In addition to ensuring that rural and other high cost subscribers are shielded from inordinately high NTS cost recovery burdens, the Unity 1-A long term support mechanism should prove to be an effective bulwark against pressures to deaverage interstate toll rates. We note, for example, that the estimated 1993 CCL charge of LECs remaining in the common line pool could be approximately \$.01 per minute of use and, therefore, could not exceed the lowest possible non-pooled LEC CCL charge by more than that amount.¹⁹¹ This potential 1993 rate disparity is less than existing disparities among the LECs' traffic-sensitive charges, which have not produced interstate toll rate deaveraging.¹⁹² Moreover, it is unlikely

189 See infra note 197.

190 See supra para. 121.

191 NECA Pooling Data Request, Attachment C III, Comparative Data Analysis, Company Specific State by State Results, Year 1993, filed September 2, 1986, at Column C.

192 For example, in October of 1986, the combined traffic-sensitive

that significant pressure to deaverage interstate toll rates will result from potential differences between the pooled NECA CCL rate and non-pooled CCL rates higher than the NECA rate. This is so for several reasons. First, smaller LECs with cost recovery requirements sufficient to produce very high CCL rates have little incentive, for that very reason, to withdraw from the NECA common line tariff and pooling arrangement. Second, a non-pooling holding company with a mixture of high and low cost study areas would be able to lower extreme CCL rate "peaks" among these areas by tariffing a single, averaged CCL rate covering some or all these areas, as permitted by the Commission's Rules.¹⁹³

128. Although the framework of the Unity 1-A pooling proposal is sound, we believe, as noted above, that it should be modified in certain respects. Before discussing our own recommendations in this regard, we first discuss several modifications suggested by parties commenting on the proposal.

129. The first suggestion raised by commenters is that upon completion of the transitional support payment schedule, LECs that have been receiving transitional support be excused from long term support obligations if payment of long term support requires them to charge a CCL rate higher than the NECA CCL rate. In our view, adopting this proposal would establish an incentive for non-pooling LECs, particularly those with CCL rates near the NECA rate, to increase their costs in an effort to qualify for relief from LTR payments. We have been provided no sound reason to establish such an incentive, which runs counter to our goal of increasing LECs' cost containment incentives through pooling modifications. Therefore, we reject this suggestion.

130. The second suggestion raised by commenters is that LECs be permitted to evaluate on a study-area-by-study-area basis whether to participate in the modified NECA pooling arrangement we are proposing. We reject this suggestion because it quite likely would cause LECs to withdraw only their low cost study areas from the pool. This would result in mere

switched charges assessed upon IXCs per minute of use by Pacific Bell totaled \$.0353, while those of New Jersey Bell totaled \$.0191. These are traffic-sensitive premium switched access rates, excluding the CCL charge, calculated per minute of use on the basis of a ten mile transport. See Pacific Bell Tariff Review Plan, Switched Access Rate Analysis, Vol. 1, Section 5, filed October 3, 1986, at p.2, line 120; Bell Atlantic Tariff Review Plan, Switched Access Rate Analysis, Vol. 2, Section 5, filed October 3, 1986, at line 120 (New Jersey Bell).

193 See 47 C.F.R. § 69.3(e)(7).

administrative changes in the current pooling arrangement, rather than the fundamental reforms that we hope to achieve through our proposed structural modifications, because the long term support obligations of non-pooling low cost LECs would likely equal the contributions they would make if they remained in the pool. Permitting withdrawal from the pool on a study area basis also might establish improper incentives relating to the allocation of common costs between study areas remaining in the pool and those that are withdrawn. Therefore, we recommend that the Commission adopt a requirement that withdrawal from the pool be on an "all or nothing" basis. Specifically, a LEC withdrawing one of its study areas must withdraw all of them, and a regional holding company withdrawing one of its LECs must withdraw them all.¹⁹⁴

131. We turn now to our further recommendations for improving the Unity 1-A pooling proposal. Our primary concern relates to the proposed Unity 1-A schedule for LEC withdrawal from the existing NECA tariff and pooling arrangement. As noted previously, this proposed schedule would require LECs to announce on June 1, 1987, their intention to file their own CCL tariffs on October 1, 1987, as part of the Commission's annual access tariff revision process. These tariffs would have a scheduled effective date of January 1, 1988, the date on which Unity 1-A contemplates that the ceiling on federal subscriber line charge cap would be raised to \$4.00. Although LECs would be permitted to withdraw each year thereafter, the Unity 1-A proposal makes TRS payments available only to LECs withdrawing the first year.

194 Following the close of the comment period, representatives of NRTA and USTA (hereafter industry representatives) presented to members of the Federal Joint Board Staff a proposed amendment to Unity 1-A concerning the impact of mergers and acquisitions on the pooling status of individual LECs. See Notice of Ex Parte Meeting between federal Joint Board staff and Counsel to NRTA and USTA, MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72 and 80-286, filed January 14, 1987. Essentially, the proposed amendment would permit a non-pooling LEC that acquires a LEC remaining in the pool to determine whether the acquired LEC would continue to participate in the NECA CCL tariff and pool. According to the industry representatives, the primary purpose of the proposal is to maintain the marketability of small LECs. Although we are recommending that the Commission take several steps to ensure that the impact of our proposed pooling modifications does not adversely affect small LECs, the record in this proceeding is not sufficiently detailed to permit us to recommend the adoption of this proposal, which no party has had an opportunity to comment on. Rather, we recommend that the proposal be examined and resolved in a separate proceeding initiated by the Commission.

132. The proposed Unity 1-A schedule raises several problems. First, the January 1, 1988 date proposed in Unity 1-A for implementing pooling modifications was established to coincide with implementation of Unity 1-A's proposed increase in subscriber line charges to \$4.00. Although there is no persuasive evidence that a LEC's considerations about withdrawing from the pool would be substantially altered due to the difference between the \$4.00 ceiling proposed in Unity 1-A and our own recommendation that subscriber line charges ultimately be raised to \$3.50, our proposed schedule regarding increases will provide for only \$2.60 of subscriber line charge recovery as of January 1, 1988. This level of subscriber line charge recovery is not high enough to permit many LECs to withdraw from the NECA tariff and pooling arrangement, including some of the largest LECs.¹⁹⁵ Because the goals we seek to achieve through our proposed pooling modifications hinge upon the withdrawal of the largest companies from the NECA tariff,¹⁹⁶ we recommend that such modifications be implemented on April 1, 1989, the date we have proposed an increase in the ceiling on subscriber line charges to \$3.50.

133. The second problem with the proposed Unity 1-A schedule is the establishment of a single opportunity for LECs to announcing an intention to withdraw and qualify to receive transitional support payments. This may well place a significant and unreasonable burden upon all but the largest companies.¹⁹⁷ Smaller companies that might wish to leave the pool

195 Among other reasons, a \$2.60 subscriber line charge would require certain LECs outside the NECA pool, particularly high cost LECs, to tariff a CCL rate so high as to significantly exacerbate uneconomic bypass incentives in their study areas, as well as threaten continued averaging of interstate toll rates.

196 See supra para. 125. In making our recommendations regarding pooling modifications, we are relying upon the representations made by Unity 1-A's sponsors that the largest companies will withdraw from the NECA Common Line tariff and pool. If the benefits we seek to obtain through pooling modifications are substantively compromised as a result of companies not acting as they have represented, we recommend that our proposals be revisited.

197 Most of the LECs that Unity 1-A indicates will withdraw from the NECA pool are operating companies within holding companies that own or control more than 300,000 access lines and in excess of \$150 million in annual operating revenues. Compare Joint Comments at n. 19 with United States Telephone Association, Telephone Statistics for the Year 1985, Vol. 1, July 1986, at 8 (access lines and annual operating revenues of 100 largest companies). For purposes of our discussions of pooling modifications, we

do not enjoy the substantial staff and related resources of the largest companies, and likely will need more time to evaluate the implications for themselves and their customers of withdrawing from the NECA tariff, as well as to assemble and prepare the information necessary to file their own tariffs with the Commission. For these reasons, we recommend that smaller companies be given an additional opportunity, in 1989 as well as in 1988, to announce their intention to withdraw while still qualifying for transitional support.¹⁹⁸

134. Implementing our proposed pooling modifications in this two-stage process, beginning April 1, 1989, is also designed to alleviate the potentially significant administrative burdens such implementation could place on the Commission.¹⁹⁹ If receipt of transitional support is contingent upon withdrawing from the pool on one particular date, as proposed in Unity 1-A, all net recipient LECs that seek to withdraw from the pool will be encouraged to file their own CCL tariffs at the same time. We have concluded that a two-stage process for these carriers will significantly ease the administrative burden, with few adverse consequences.

135. Even if the first filing of common line tariff revisions relating to pooling modifications involves only the largest LECs, the Commission may have to review as many as 40 such tariffs, and potentially many more, as a matter of first impression.²⁰⁰ Performing this review in a meaningful manner would be difficult under any circumstances. It would be especially difficult if it were conducted in conjunction with the Commission's scheduled annual review of access tariff revisions,²⁰¹ as

will refer to LECs meeting these criteria as the largest companies and to all other LECs as smaller companies.

198 We also recommend that smaller LECs announcing in 1989 their intention to withdraw from the NECA tariff be provided with four years of transitional support, commencing in 1990.

199 It is unlikely that our proposed pooling modifications will have any significant impact on state commissions, although a limited number of changes may be required in states in which the present intrastate CCL rate is tied to the NECA CCL rate.

200 The Commission will have to review 40 separate CCL rates if all LECs that Unity 1-A's sponsors predict will withdraw from the NECA tariff, see supra note 196, thereafter file their own CCL tariffs at the study area level.

201 This review is conducted each year during the period from October 1 through December 31. See 47 C.F.R. § 69.3(a).

proposed in Unity 1-A. Finally, the establishment of an April 1, 1989, effective date for implementation of pooling modifications permits us to recommend that the date on which LECs will have their first opportunity to announce their intention to withdraw from the NECA tariff occur during August 1988. In 1989 and thereafter, we recommend that June be established as the month in which NECA must be notified of a LEC's intention to withdraw.²⁰²

VIII. Monitoring Program

136. Several significant steps are taken in this Order in the areas of MTS cost recovery and subscriber line charges, high cost assistance, lifeline assistance, and pooling of common line costs. While we view the proposals presented in this Order as final recommendations, we also recognize our continuing responsibility to monitor the impact of our recommendations in the increasingly dynamic telecommunications environment. Therefore, we are recommending that the Commission establish a comprehensive monitoring program by this Joint Board and the Commission to track the impact of this Recommended Decision and Order and Commission action on it.

137. We recommend that the Commission direct this Joint Board to issue in the near future a more complete order delineating the framework of, and schedule for, this monitoring program.²⁰³ Generally, we recommend that this program include collection of data on the impact of subscriber line charges. The Census Bureau's data on subscribership levels presently collected through the Current Population Survey should be enhanced with data designed to examine the effects of subscriber line charges on specific population segments. The effectiveness of lifeline plans, both the existing

202 If the Commission adopts our recommendations relating to pooling revisions, adjustments will be necessary to the current Part 69 rules governing the administration of NECA and the operations of the Common Line pool. Since the pooling modifications we are recommending will not become effective until April 1989, these adjustments need not be made immediately. We note that the Commission already is considering various issues relating to NECA's activities and administration. See Amendment and Clarification of Part 69 Rules Governing the National Exchange Carrier Association, Memorandum Opinion and Order and Notice of Proposed Rulemaking, CC Docket No 87-2, FCC 87-19, released Jan. 16, 1987.

203 The Joint Board Recommended Decision and Order on the monitoring program should be released by May 10, 1987 in order to be in effect on June 1, 1987.

subscriber line charge waiver measures and the proposed new service commencement charge assistance measures, also should be analyzed. Additionally, reliable data on growth of network usage should also be included in the monitoring program, as well as information and data on the development of uneconomic bypass affecting the public switched network. Monitoring the results of the retargeted high cost assistance mechanism recommended in this Order also will help ascertain whether the support provided through this program is providing effective assistance to customers in rural and other high cost areas. Revisions to the pooling of CCL costs and revenues, to be effective on April 1, 1989, will necessitate the monitoring of those LECs that withdraw from the NECA pooling and tariff process, the dimensions of the LTS and TRS payments between the LECs, the CCL revenue requirements for the LECs that remain in the NECA pool, and the economic pressures for IXCs to deaverage interstate toll rates. Finally, monitoring the rates and revenues for basic local services, or other state services and interstate toll should also be included.

138. In order to ensure that the monitoring program takes into account all relevant factors, we further recommend that an open record be maintained in this docket to allow for the filing of comments at any time regarding the structure and effectiveness of the program. Finally, we recommend that a series of reports based upon the data collected through the program be submitted to Congress and state regulators. These reports would be prepared on a quarterly basis. In addition to these reports, the members of the Joint Board and the Commission would conduct a 90-day study and review of the impact of subscriber line charges prior to the two final increases in these charges in 1988 and 1989. Finally, we recommend that the Commission submit the results of these reviews to Congress and state regulators.

139. The recommendations contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

IX. Ordering Clause

140. ACCORDINGLY, the Joint Board RECOMMENDS that the Commission adopt the proposals discussed above and the attached revisions to Parts 67 and 69 of the Commission's Rules.²⁰⁴

FEDERAL COMMUNICATIONS COMMISSION
For the Federal-State Joint Board

²⁰⁴ This recommendation is adopted pursuant to Sections 4(i), 4(j), 201, 202, 203, 205, 221, 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 201, 202, 203, 205, 221, 403 and 410 (1986).

Appendix A

List of Parties Filing Comments or Replies in the Reexamination Proceeding

Ad Hoc Telecommunications Users Committee (Ad Hoc)
 Ad Hoc Telecommunications Users Committee, Computer and Business Equipment
 Manufacturers Association, Information Industry Association,
 Tele-Communications Association (ADAPSO)
 The State of Alaska (Alaska)
 ALC Communications Corporation (ALC)
 ALLTEL Corporation (ALLTEL)
 American Association of Retired Persons (AARP)
 American Petroleum Institute, Committee on Telecommunications (API)
 American Telephone and Telegraph Company (AT&T)
 Ameritech Operating Companies (Ameritech)
 Arkansas Public Service Commission (Arkansas)
 Bell Atlantic Telephone Companies (Bell Atlantic)
 BellSouth Corporation (BellSouth)
 The State of California and the Public Utilities Commission of California
 (California)
 Central Telephone Company (Centel)
 Cincinnati Bell Telephone Company (Cincinnati Bell)
 Colorado Public Utilities Commission Staff (Colorado)
 Colorado Office of Consumer Counsel, Office of Consumers' Counsel of the
 State of Georgia, and the Public Counsel Section of the Office of the
 Attorney General of Washington State (Consumers' Counsels)
 Communications Workers of America (CWA)
 Concerned Citizens for Universal Service (CCUS)
 Consumer Federation of America (CFA)
 Contel Corporation (Contel)
 CP National Corporation (CP National)
 Office of the People's Counsel of the District of Columbia
 Public Service Commission of the District of Columbia (District of Columbia)
 Florida Public Service Commission (Florida)
 Granite State Telephone, Herrimack County Telephone Company, Fort Bend
 Telephone Company and Elkhart Telephone Company (Independents)
 GTE Service Corporation (CTOCs)
 Idaho Public Utilities Commission (Idaho)
 Illinois Commerce Commission (Illinois)
 International Communications Association (ICA)
 Kansas Corporation Commission (Kansas)
 Lackawaxen Telephone Company (Lackawaxen)
 MCI Telecommunications Corporation (MCI)
 Michigan Public Service Commission Staff (Michigan)
 Missouri Public Service Commission (Missouri)
 Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone

Company and Pacific Northwest Bell Telephone Company (US West)
 National Association of State Utility Consumer Advocates (NASUCA)
 National Exchange Carrier Association (NECA)
 National Rural Telecom Association (NRTA)
 National Rural Telecom Association, National Telephone Cooperative
 Association, Organization for the Protection and Advancement of Small
 Telephone Companies and United States Telephone Association
 (Joint Comments)
 National Telecommunications and Information Administration (NTIA)
 National Telephone Cooperative Association (NTCA)
 New Jersey Board of Public Utilities (New Jersey)
 New York State Consumer Protection Board
 New York State Department of Public Service (New York)
 New York Telephone Company and New England Telephone and Telegraph Company
 (NYNEX)
 Office of the Consumers' Counsel, State of Ohio (Ohio Consumers' Counsel)
 Organization for the Protection and Advancement of Small Telephone Companies
 (OPASTCO)
 Pacific Bell and Nevada Bell
 Pennsylvania Public Utility Commission Staff (Pennsylvania)
 Puerto Rico Telephone Company (Puerto Rico Telephone)
 Rochester Telephone Corporation (Rochester)
 Shenandoah Telephone Company (Shenandoah)
 Southern New England Telephone Company (SNET)
 Southwestern Bell Telephone Company (Southwestern Bell)
 Public Utility Commission of Texas (Texas)
 United Church of Christ Office of Communication (UCCOC)
 United States Department of Justice (DoJ)
 United States Telecommunications Association (USTA)
 United Telephone System, Inc. (United)
 US Sprint Communications Company (US Sprint)
 Vermont Public Service Board (Vermont)
 Waitsfield-Fayston Telephone Company (Waitsfield-Fayston)
 Wisconsin State Telephone Association (Wisconsin)

Appendix B

Proposed Part 67 & Part 69 Rule Changes

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Proposed Part 67 Rule Changes

67.613 Submission of Information by the National Exchange Carrier Association

- (a) On September 1 of each year after 1987, the National Exchange Carrier Association shall file with the Commission the information listed below. Information filed with the Commission shall be compiled from information provided to the Association by telephone companies pursuant to § 67.611.
- (1) The unseparated loop cost for each study area and a nationwide-average unseparated loop cost.
 - (2) The annual amount of the high cost expense adjustment for each study area, and the total nationwide amount of the expense adjustment.
 - (3) The dollar amount and percentage of the increase in the nationwide average unseparated loop cost, as well as the dollar amount and percentage increase for each study area, for the previous 5 years, or the number of years NECA has been receiving information under § 67.611, whichever is the shorter time period.

67.631 Expense Adjustment

- (a) Until August 31, 1988, for study areas reporting 50,000 or fewer working loops pursuant to § 67.611(a)(8), the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

- (b) Until August 31, 1988, for study areas reporting more than 50,000 working loops pursuant to § 67.611(a)(8) the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

COPS

(c) Beginning September 1, 1988, for study areas reporting 200,000 or fewer working loops pursuant to § 67.611(a)(8), the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

- (1) Sixty-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 115 percent of the national average for this cost but not greater than 150 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.
- (2) Seventy-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 150 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(d) Beginning September 1, 1988, for study areas reporting more than 200,000 working loops pursuant to § 67.611(a)(8), the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

- (1) Ten percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 115 percent of the national average for this cost but not greater than 160 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.
- (2) Thirty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 160 percent of the national average for this cost but not greater than 200 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.
- (3) Sixty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 200 percent of the national average for this cost but not greater than 250 percent of the national average for

this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

- (4) Seventy-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 250 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

Subpart G - Lifeline Connection Assistance Expense Allocation

67.701 General

- (a) The Lifeline Connection Assistance Expense portion of the interstate apportionment shall consist of an expense adjustment computed in accordance with this Subpart. The expense adjustment will be added to interstate expenses and deducted from state expenses for eligible study areas as defined in this Subpart after all other steps required by this Part have been completed.
- (b) The expense adjustment will be computed as provided in § 67.741.

DEFINITIONS

67.711 Lifeline Connection Assistance

- (a) For purposes of this Subpart, Lifeline Connection Assistance shall describe the following lifeline telephone assistance for eligible residential subscribers as defined in § 67.711(b):
- (1) a reduction in the charges for commencing telephone service assessed for a single telephone line per household at the principal place of residence; and/or
 - (2) a deferred schedule for payment of the charges assessed for commencing service, for which the telephone company does not charge interest.
- (b) In order to be eligible for assistance, a residential subscriber must:
- (1) have lived at an address where there has been no telephone service for at least three months immediately prior to the

1988

date that the assistance described in §§ 67.711(a)(1) and/or § 67.711(a)(2) is requested from the telephone company;

- (2) not have received assistance pursuant to §§ 67.711(a)(1) and/or 67.711(a)(2) within the last two years, with receipt of such assistance to be measured from the date of initiation of the telephone service for which assistance was provided;
 - (3) not be a dependent for federal income tax purposes as defined in 26 U.S.C. § 152 (1986) unless the subscriber is more than 60 years of age; and
 - (4) meet the requirements of a state established income test.
- (c) Charges assessed for commencing service include any state tariffed charges levied for connecting a subscriber to the network. These charges do not include security deposit requirements.

TELEPHONE COMPANY ELIGIBILITY

67.721 Telephone Company Eligibility for Lifeline Connection Assistance Expense Allocation

- (a) In order to be entitled to the additional interstate expense adjustment described in this Subpart a telephone company:
 - (1) must provide Lifeline Connection Assistance as defined in §§ 67.711(a)(1) and/or 67.711(a)(2) to eligible subscribers as defined in § 67.711(b);
 - (2) shall verify that subscribers meet the eligibility criteria set out in §§ 67.711(b)(1)-(2) provided that:
 - (i) verification of subscriber eligibility by designated state officials may be substituted for verification by the telephone company;
 - (ii) if a state determines that it is administratively or economically infeasible for the state or telephone company to verify the eligibility criteria described in §§ 67.711(b)(1)-(2) when the necessary information must be provided by a telephone company or agency outside the state, or when this determination is made in other specified circumstances, self-certification of these criteria will be allowed;

- (iii) if the eligibility criteria described in §§ 67.711(b)(1)-(2) are self-certified, the eligibility criterion described in § 67.711(b)(4) must be verified by the state or by the telephone company;
- (3) may accept self certification of the eligibility criteria described in §§ 67.711(b)(3)-(4), except as provided in § 67.721(a)(2)(iii).
- (4) shall file information with the Commission Secretary demonstrating that it is eligible for the additional interstate expense adjustment.
- (b) The additional interstate expense adjustment shall be effective as soon as the Commission certifies that the state or local telephone company is eligible for the additional interstate expense adjustment, the local exchange company files the data required by § 67.731 with the National Exchange Carrier Association, and the relevant tariff provisions become effective.

DATA COLLECTION

67.731 Submission of information to the National Exchange Carrier Association.

- (a) In order to allow calculation of the lifeline expense adjustment each local telephone company wishing to receive the additional interstate expense allocation provided for in this Subpart shall provide the National Exchange Carrier Association established pursuant to Part 69 of the Commission's rules with the information listed below for each of its study areas. The information for the succeeding calendar year is to be filed with the Association on June 30th of each year after certification of the plan by the Commission pursuant to § 67.721(b). The information filed on June 30th of each year will be used in the jurisdictional allocations underlying the cost support data for the access tariffs to be filed the following October.
 - (1) an estimate of the number of eligible households which will receive the lifeline assistance described in § 67.711(a)(1) pursuant to a lifeline assistance program which has received Commission certification.
 - (2) an estimate of the average discount on service commencement charges to be provided to each subscriber, not to exceed 50 percent of the charges for commencement of the same service applicable to non-lifeline customers or \$30.00, whichever is

less;

- (3) an estimate of the number of eligible subscribers which will receive the lifeline assistance described in § 67.711(a)(2).
- (4) an estimate of the average deferred interest cost for each subscriber, provided that:
 - (i) the deferred amount on which the cost of interest shall be calculated is not to exceed \$200.00; and
 - (ii) interest shall be applied only to amounts actually outstanding, at the rate for 10-year Treasury Bills on January 1 of each year, with the interest rate adjusted only with each filing.
- (b) In the event that this additional interstate expense allocation is to be in effect for a given study area for less than a full calendar year, the carrier is to submit the information described in §§ 67.731(a)(1)-(4) adjusted to reflect the number of subscribers and the relevant costs for the portion of the year during which this expense adjustment will be in effect as part of its § 67.721(a)(4) submission to the Commission. These data shall be filed with NECA at the same time they are filed with the Commission

CALCULATION OF LIFELINE CONNECTION ASSISTANCE EXPENSE ADJUSTMENT

67.741 Expense Adjustment

- (a) The additional interstate expense allocation shall be calculated by adding the following: (1) the number of households provided pursuant to § 67.731(a)(1) times the dollar amount provided pursuant to § 67.731(a)(2); and (2) the number of households provided pursuant to § 67.731(a)(3) times the dollar amount provided pursuant to § 67.731(a)(4).
- (b) The expense adjustment calculated pursuant to § 67.741(a) shall be adjusted each year to reflect the actual number of lifeline recipients and the actual dollar amount of the benefits provided to them in the previous year. If the actual benefits provided in a given calendar year exceed the estimated benefits for that year calculated pursuant to § 67.741(a), this difference shall be added to the amount calculated pursuant to § 67.741(a) for the following year. If the actual benefits provided in a given year are less than the estimated amount for that year calculated pursuant to § 67.741(a), this difference shall be subtracted from the amount

calculated pursuant to § 67.741(a) for the following year.

- (c) A pro-rata share of the expense adjustment calculated pursuant to § 67.741(a)-(b) shall be subtracted from the intrastate expenses for each account described below as calculated pursuant to the preceding Subparts of Part 67 and added to the interstate expenses for each such account calculated pursuant to the preceding Subparts of Part 67. The pro-rata share for each account shall be calculated by multiplying the total interstate expense adjustment by the ratio of the unseparated expenses for the account involved to the unseparated expenses for all of the accounts listed below:

- (1) Accounts 602.1-602.8 - Repairs of outside plant
- (2) Account 603 - Test desk work
- (3) Account 604 - Repairs of central office equipment
- (4) Account 645 - Local Commercial operations
- (5) Accounts 662 - Revenue Accounting Expenses

- - - - -

Proposed Part 69 Rule Changes

69.2 Definitions

- (hh) Level I Contributors - Telephone companies that are not association Common Line tariff participants, file their own Common Line tariffs effective April 1, 1989, and had a lower than average Common Line revenue requirement per minute of use in 1988 and thus were net contributors (i.e. had a negative net balance) to the association Common Line pool in 1988.
- (ii) Level I Receivers - Telephone companies that are not association Common Line tariff participants, file their own Common Line tariffs effective April 1, 1989, and had a higher than average Carrier Common Line revenue requirement per minute of use in 1988 and thus were net receivers (i.e. had a positive net balance) from the association Common Line pool in 1988.

(jj) Level II Contributors - A telephone company or group of affiliated telephone companies with fewer than 300,000 access lines and less than \$150 million in annual operating revenues that is not an association Common Line tariff participant, files its own Common Line tariff effective January 1, 1990, and that had a lower than average Common Line revenue requirement per minute of use in 1988 and thus was a net contributor (i.e., had a negative net balance) to the association Common Line pool in 1988.

(kk) Level II Receivers - A telephone company or group of affiliated telephone companies with fewer than 300,000 access lines and less than \$150 million in annual operating revenues that is not an association Common Line tariff participant, files its own Common Line tariff effective January 1, 1990, and that had a higher than average Carrier Common Line revenue requirement per minute of use in 1988 and thus was a net receiver (i.e., had a positive net balance) from the association Common Line pool in 1988.

(ll) "Long Term Support" (LTS) means funds provided by telephone companies that are not association Common Line tariff participants to association Common Line tariff participants. LTS enables association Common Line tariff participants to charge a Carrier Common Line (CCL) rate equivalent to the CCL rate that would result if all telephone companies participated in the association Common Line tariff.

(mm) "Transitional Support" (TRS) means funds provided by telephone companies that are not association Common Line tariff participants, but were net contributors to the association Common Line pool in 1988, to telephone companies that are not association Common Line tariff participants and were net receivers from the association Common Line pool in 1988.

69.3 Filing of access service tariffs

(e) (1) Such a tariff must cross reference association charges for the Carrier Common Line and End User Common Line element or elements if such company or companies participate in the pooling of revenues and revenue requirements for such elements.

(e) (9) A telephone company or group of affiliated telephone companies that elects to file its own Common Line tariff

effective April 1, 1989 shall notify the association not later than August 30 of the preceding year that it will no longer participate in the association tariff. A telephone company or group of affiliated telephone companies that elects to file its own Common Line tariff effective January 1, 1990, or thereafter pursuant to Section 69.3(a), shall notify the association not later than June 30 of the preceding year that it will no longer participate in the association tariff. A telephone company or group of affiliated telephone companies that elects to file its own Common Line tariff for one of its study areas shall file its own Common Line tariff(s) for all of its study areas.

69.4 Charges to be filed

- (b) Except as provided in Subpart C of this Part and in Section 69.4(c), the carrier's carrier charges for access service filed with this Commission shall include charges for each of the following elements:

- (c) For all tariffs filed with this Commission that become effective after March 31, 1989, the carrier's carrier charges for access service shall include charges for each of the elements listed in Section 69.4(b) and for each of the following elements:

(1) Universal Service Fund

(2) Lifeline Assistance

69.5 Persons to be assessed

- (d) Beginning April 1, 1989, Universal Service Fund and Lifeline Assistance charges shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least: (1) one percent of the total common lines presubscribed to interexchange carriers in all study areas; or (2) five percent of the presubscribed lines in any study area and a minimum of one thousand presubscribed lines in that study area.

69.104 End user common line

- (c) Except as provided in subsections 69.104(d)-(h), the single line rate or charge shall be computed by dividing one-twelfth of the projected annual revenue requirement for the End User Common Line element by the projected average number of local exchange service subscriber lines in use during such annual period.
- (d) If the monthly charge computed in accordance with subsection 69.104(c) exceeds \$6, the charge for each local exchange service subscriber line, except a residential line, a single-line business line, or a line used for Centrex-CO service that was in place or on order as of July 27, 1983, shall be \$6.
- (e) The monthly charge for each residential or single line business local exchange service subscriber shall be the charge computed in accordance with subsection 69.104(c), or the relevant transitional charge established in Section 69.203, whichever is lower.
- (f) Except as provided in subsections 69.104(j) and (k), the charge for each residential local exchange service subscriber line shall be the same as the charge for each single line business local exchange service subscriber line.
- (g) A line shall be deemed to be a residential line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.
- (h) A line shall be deemed to be a single line business line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.
- (i) The End User Common Line charge for each multi-party subscriber shall be assessed as if such subscriber had subscribed to single-party service.
- (j) The End User Common Line charge for a residential subscriber shall be 50% of the charge specified in subsections 69.104(c) and (d) if the residential local exchange service rate for such subscribers is reduced by an equivalent amount, provided that such local exchange service rate reduction is based upon a means test that is subject to verification.

(k) (1) The End User Common Line charge for residential subscribers shall be reduced to the extent of the state assistance as calculated in subsection (k)(2) of this section, or waived in full if the state assistance equals or exceeds the residential End User Common Line charge under the circumstances described below. In order to qualify for this waiver, the subscriber must be eligible for and receive assistance or benefits provided pursuant to a narrowly targetted telephone company lifeline assistance program, requiring verification of eligibility, implemented by the state or local telephone company. A state or local telephone company wishing to implement this End User Common Line reduction or waiver for its subscribers shall file information with the Commission Secretary demonstrating that its plan meets the criteria set out in this section and showing the amount of state assistance per subscriber as described in subsection (k)(2) of this section. The reduction or waiver of the End User Common Line charge shall be available as soon as the Commission certifies that the state or local telephone plan satisfies the criteria set out in this subsection and the relevant tariff provisions become effective.

(2)(i) The state assistance per subscriber shall be equal to the difference between the charges to be paid by the participating subscribers and those to be paid by other subscribers for comparable monthly local exchange service, service connections and customer deposits, except that benefits or assistance for connection charges and deposit requirements may only be counted once annually. In order to be included in calculating the state assistance, such benefits must be for a single telephone line to the household's principal residence.

(ii) The monthly state assistance per participating subscriber shall be calculated by adding the amounts calculated in paragraphs (k)(2)(ii)(A) and (B) of this section.

(A) The amount of the monthly state assistance per participating subscriber for local exchange service shall be calculated by dividing the annual difference between charges paid by all participating subscribers for residential local exchange service and the amount which would have been charged to non-qualifying subscribers for comparable service by twelve times the number of subscribers participating in the state assistance program. Estimates may be used when historic data are not available.

(B) The amount of the monthly state assistance for service connections and customer deposits per participating subscriber shall be calculated by determining the annual amount of the reductions in these charges for participating subscribers each year and dividing this amount by twelve times the number of participating subscribers. Estimates may be used when historic data are not available.

- (1) In connection with the filing of access tariffs pursuant to Section 69.3(a), telephone companies shall calculate for the association their projected revenue requirement attributable to the operation of Sections 69.104(j)-(k). The association shall add such amounts to the Lifeline Assistance revenue requirement, bill and collect such amounts from interexchange carriers pursuant to Sections 69.116-69.117, and distribute the funds to qualifying telephone companies pursuant to Section 69.603(d).

(m) No charge shall be assessed for any WATS access line.

69.105 Carrier Common Line

- (a) A charge that is expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers that use local exchange common line facilities for the provision of interstate or foreign telecommunications services, except that the charge shall not be assessed upon interexchange carriers to the extent they resell MTS or MTS-type services of other common carriers (OCCs).
- (b) (1) The Carrier Common Line charge of association Common Line tariff participants shall be computed by dividing the projected Carrier Common Line revenue requirement of such telephone companies, plus the projected Carrier Common Line revenue requirement of telephone companies that are not association Common Line tariff participants, by the projected annual access minutes of use for all interstate and international services that use local exchange common line facilities and are subject to charges under paragraph (a) of this section. Each minute of use of any local exchange common line by such services shall be counted for purposes of computing this charge. Telephone companies that are not association Common Line tariff participants shall submit to the Commission and to the association whatever data the Commission shall determine are necessary to calculate this charge.

- (2) The Carrier Common Line charge(s) of telephone companies that are not association Common Line tariff participants shall be computed at the level of Carrier Common Line access element aggregation selected by such telephone companies pursuant to Section 69.3(e)(7). The charge for each such element shall be computed by dividing the projected Carrier Common Line revenue requirement by the projected annual access minutes for all interstate or foreign services that use local exchange common line facilities related to such revenue requirement.

* * * * *

69.116 Universal Service Fund

Effective April 1, 1989:

- (a) A charge that is expressed in dollars and cents per line per month shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least: (1) one percent of the total common lines presubscribed to interexchange carriers in all study areas; or (2) five percent of the presubscribed lines in any study area and a minimum of one thousand presubscribed lines in that study area.
- (b) The charge shall be computed by the association on a semi-annual basis by dividing one-twelfth of the projected annual Universal Service Fund revenue requirement by the total number of common lines presubscribed to interexchange carriers defined in Section 69.116(a). The association shall bill and collect the charge, and disburse associated revenue, on a monthly basis pursuant to Section 69.603(c).
- (c) Telephone companies shall provide to the association the data necessary to compute the charge. These data shall include the number of presubscribed common lines in each study area and the number of those lines associated with each interexchange carrier serving that study area. In a study area served by a single interexchange carrier, all common lines shall be considered as presubscribed to that interexchange carrier. Information concerning presubscribed common lines shall be filed with the association on June 30 and January 2 of each year, beginning on June 30, 1988. Presubscribed common line data filed on June 30 shall be calculated as of December 31 of the preceding year, and presubscribed common line data filed on January 2 shall be calculated as of June 30 of the preceding year.

69.117 Lifeline Assistance

Effective April 1, 1989:

- (a) A charge that is expressed in dollars and cents per line per month shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least: (1) one percent of the total common lines presubscribed to interexchange carriers in all study areas; or (2) five percent of the presubscribed lines in any study area and a minimum of one thousand presubscribed lines in that study area.
- (b) The charge shall be computed by the association on a semi-annual basis by dividing the sum of one-twelfth of the projected annual Lifeline Assistance revenue requirement and one-twelfth of the projected annual revenue requirement calculated by all telephone companies pursuant to Section 69.104(1) by the number of common lines presubscribed to interexchange carriers defined in Section 69.117(a). The association shall bill and collect the charge, and disburse associated revenue, on a monthly basis pursuant to Section 69.603(d).
- (c) Telephone companies shall provide to the association the data necessary to compute the charge. These data shall include the number of presubscribed common lines in each study area and the number of those lines associated with each interexchange serving that study area. In a study area served by a single interexchange carrier, all common lines shall be considered as presubscribed to that interexchange carrier. Information concerning presubscribed common lines shall be filed with the association on June 30 and January 2 of each year, beginning on June 30, 1988. Presubscribed common line data filed on June 30 shall be calculated as of December 31 of the preceding year, and presubscribed common line data filed on January 2 shall be calculated as of June 30 of the preceding year.

69.202 Initial End User Common Line Charges DELETE

69.203 Transitional End User Common Line Charges

- (a) Except as provided in Sections 69.104 and 69.204, the End User Common Line charge for single line business subscribers, single line residential subscribers, and multi-line residential subscribers shall be the lesser of the charge computed in Section 69.104(c) or \$2 per line per month until May 31, 1987; \$2.60 per line per month during the period from June 1, 1987 through August 31, 1988; \$3.20 per line per month during the period from

September 1, 1988 through March 31, 1989; and \$3.50 per month thereafter.

- (b) The End User Common Line charge for each subscriber line used for Centrex-CO service that was in place or on order as of July 27, 1983, shall be the lesser of the charge computed in Section 69.104(c) or \$3 per line per month until May 31, 1987; \$4 per line per month during the period from June 1, 1987 through August 31, 1988; \$5 per line per month for the period from September 1, 1988 through March 31, 1988; and \$6 per line per month thereafter.

- (c) No charge shall be assessed for any WATS access line.

69.207 Interim Carrier Common Line Charges

Notwithstanding Sections 69.203 and 69.205, the transitional premium charges for the Carrier Common Line element shall be computed in accordance with this section during the period commencing June 1, 1986, and concluding August 31, 1988. For purposes of this section, the term "open end" of a call refers to the origination or termination of a call that utilizes exchange carrier common line plant. (A call can have no, one, or two open ends). The transitional premium charges for the Carrier Common Line element shall be expressed in dollars and cents per access minute. The charge shall be 4.33 cents per premium minute for: (i) All terminating premium minutes on calls with two open ends (e.g., an MTS or OCC MTS-type call); and (ii) all WATS-type or FX calls. For purposes of this section, the term "originating-II minutes" refers to originating minutes on calls with two open ends. The charge on premium originating-II minutes shall be computed by subtracting the sum of the projected revenues generated from (i) the 4.33 cents per minute premium charge described above and (ii) the corresponding non-premium charge, from the carrier common line revenue requirement and dividing the remainder by the sum of the projected premium originating-II minutes and a number equal to .45 multiplied by the projected non-premium originating-II minutes. For purposes of this section, if the calculations described above result in a negative per minute charge on originating-II minutes, such charge shall be adjusted to equal .00 cents, and the charge of 4.33 cents on terminating minutes shall be lowered accordingly.

69.410 Other Expenses

69.604 Billing and Collection of Access Charges

- (a) Telephone companies shall bill and collect all access charges except those charges specified in Sections 69.116 and 69.117.

69.605 Reporting and Distribution of Pool Access Revenues

- (a) Access revenues and cost data shall be reported by participants in association tariffs to the association for computation of monthly pool revenues distributions in accordance with this Subpart.

69.612 Long Term and Transitional Support

A telephone company that does not participate in the association Common Line tariff shall have computed by the association:

- (a) Long Term Support Obligation

The Long Term Support payment obligation of telephone companies that are not association Common Line tariff participants shall be equivalent to the difference between the projected Carrier Common Line revenue requirement of association Common Line tariff participants and the projected revenue recovered by the association Carrier Common Line charge as calculated pursuant to Section 69.105(b)(1).

- (1) For the period from April 1, 1989 through March 31, 1994, the Long Term Support payment obligation shall be funded by all telephone companies that are not association Common Line tariff participants and do not receive transitional support pursuant to subsection 69.612(b). The percentage of the total annual Long Term Support requirement paid by each telephone company in this group that is not a Level I or Level II Contributor shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The remaining amount of Long Term Support requirement shall be allocated among Level I and Level II Contributors based upon the amount of each Level I and Level II Contributor's 1988 contributions to the association Common Line pool in relation to the total amount of 1988 Common Line pool contributions of all other Level I and Level II Contributors. The association shall inform each telephone company about its mandatory Long Term Support obligation within a reasonable time prior to the

filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to Section 69.603(e).

- (2) Beginning April 1, 1994, and thereafter, the Long Term Support payment obligation shall be funded by each telephone company that files its own Carrier Common Line tariff and does not receive transitional support. The percentage of the total annual Long Term Support requirement paid by each of these companies shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The association shall inform each telephone company about its mandatory Long Term Support obligation within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to Section 69.603(f).

(b) Transitional Support

- (1) Telephone Companies categorized as Level I and Level II Receivers that file their own Common Line tariffs effective April 1, 1989 shall receive Transitional Support for a four year period commencing April 1, 1989. Level II Receivers that file their own Common Line tariffs effective January 1, 1990 shall receive Transitional Support for a four year period commencing January 1, 1990. Transitional Support for each of these telephone companies shall be computed on the basis of its net revenues less revenue requirement amounts for 1988 (adjusted for the additional revenues resulting from an increase in End User Common line charges to \$3.50) Transitional Support for these telephone companies during the transition period shall be as follows:

Year 1 - 80% of the adjusted 1987 frozen amount
 Year 2 - 60% of the adjusted 1987 frozen amount
 Year 3 - 40% of the adjusted 1987 frozen amount
 Year 4 - 20% of the adjusted 1987 frozen amount

- (2) For the period from April 1, 1989 through December 31, 1994, the Transitional Support Fund shall be funded by all telephone companies or groups of affiliated telephone companies that are not association Common Line tariff

participants and do not qualify under Section 69.612(b)(1) for Transitional Support payments. The percentage of the total annual Transitional Support requirement paid by each telephone company or group of affiliated telephone companies meeting this definition that is not a Level I or Level II Contributor shall equal the number of its common lines divided by the total number of common lines of all companies paying Transitional Support. The percentage of the remaining Transitional Support requirement shall be allocated among Level I and Level II Contributors based upon the amount of each Level I and Level II Contributor's 1988 contributions to the association Common Line Pool in relation to the total amount of 1988 Common Line pool contributions of all other Level I and Level II Contributors. The Association shall inform each Level I and Level II Contributor about its mandatory Transitional Support payment within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due the association from Level I and Level II Contributors that the association shall bill, collect, and distribute pursuant to Section 69.603(f).

Original sponsor: Boucher

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 23 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to reduced rates and discounted
7 service for low-income telecommunication customers."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 42.05.301 is amended by adding a new subsection to
10 read:

11 (b) Notwithstanding (a) of this section, a public utility may
12 propose a discounted service or a reduced rate for essential telecom-
13 munication services for the benefit of its low-income customers who
14 qualify for federal or state administered social services assistance
15 programs that determine eligibility based on financial need. The
16 commission may not require a utility to provide a discounted service
17 or reduced rate under this subsection. The commission may not require
18 a telephone utility to incur uncompensated costs or administrative
19 burdens that are not recoverable through an approved tariff if the
20 utility provides a discounted service or reduced rate.

21 * Sec. 2. AS 42.05.391 is amended by adding a new subsection to read:

22 (e) Notwithstanding (a) of this section, a public utility may
23 propose a discounted service or a reduced rate for essential telecom-
24 munication services for the benefit of its low-income customers who
25 qualify for federal or state administered social services assistance
26 programs that determine eligibility based on financial need. The
27 commission may not require a utility to provide a discounted service
28 or reduced rate under this subsection. The commission may not require
29 a telephone utility to incur uncompensated costs or administrative

1 burdens that are not recoverable through an approved tariff if the
2 utility provides a discounted service or reduced rate.
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Alaska Telephone Association

201 E. 56th Avenue / Suite 230
Anchorage, Alaska 99518
(907) 563-4000

W. D. Pyron
President

Ted Lehne
Executive Director

TELECOPIER COVER SHEET

DATE: 3/4/88 TIME: 3:20 pm

FROM: TED LEHNE

DELIVER TO:

COMPANY: SEN. TIM KELLY'S OFFICE

ATTENTION: JOHN RINGSTAD

PHONE NO.: _____

FACSIMILE NO.: 463-4867

NUMBER OF PAGES BEING TRANSMITTED: 2
(INCLUDING COVER SHEET)

IF YOU EXPERIENCE ANY PROBLEMS
PLEASE CALL JANIS AT (907) 563-4000.

ATA FAX NO.: 907/562-3776

Offered: 3/4/87
Referred: Labor & Commerce

5-0202B

Original sponsor: Boucher

ADOPTED

THIS AS CS

BY THE HOUSE SPECIAL COMMITTEE
ON TELECOMMUNICATIONS

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 23 (Telecommunications)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to reduced rates and discounted
7 service for low-income telecommunication customers."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 42.05.301 is amended by adding a new subsection to
10 read:

11 (c) Notwithstanding (a) of this section, a public utility may
12 propose a discounted service or a reduced rate for essential telecom-
13 munication services for the benefit of its low-income customers. who qualify for federal or state
14 administered means-test social services assistance programs.
15 commission may not require a utility to provide a discounted service
16 or reduced rate under this subsection. The commission may not require
17 a telephone utility to incur uncompensated costs or administrative
18 burdens that are not recoverable through an approved tariff if the
19 utility provides a discounted service or reduced rate.

20 * Sec. 2. AS 42.05.391 is amended by adding a new subsection to read:

21 (e) Notwithstanding (a) of this section, a public utility may
22 propose a discounted service or a reduced rate for essential telecom-
23 munication services for the benefit of its low-income customers. who qualify for federal or state
24 administered means-test social services assistance programs.
25 commission may not require a utility to provide a discounted service
26 or reduced rate under this subsection. The commission may not require
27 a telephone utility to incur uncompensated costs or administrative
burdens that are not recoverable through an approved tariff if the
utility provides a discounted service or reduced rate.

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4931

DISTRICT 10
BOX 111038
ANCHORAGE, ALASKA 99511
(907) 349-2192



CHAIRMAN
Special Committee on
Telecommunications

MEMBER
Labor and Commerce
State Affairs
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

APRIL 27, 1987

FROM: H.A. "RED" BOUCHER *MB*
TO: MEMBERS OF THE SENATE STATE AFFAIRS COMMITTEE
SUBJECT: HB 23 AN ACT RELATING TO REDUCED RATES AND
DISCOUNTED SERVICE FOR LOW-INCOME TELECOMMUNICATION
CUSTOMERS

INTENT

The purpose of HB 23 is to make it possible for telephone companies to offer reduced rates and services to low-income customers.

THE PROBLEM

As a result of deregulation of the telephone industry, long distance rates have decreased, but local rates have, on the average, increased (see graph).

Alaska's low income residents could be forced to drop basic telephone service if local phone rates and installation charges increase.

Current Alaska law does not permit telephone companies to offer reduced rates or discounted service to low-income customers.

CHANGES PROPOSED BY HB 23

HB 23 modifies the Alaska Public Utilities Commission Act to permit a telephone company to propose a discounted service or a reduced rate for telephone service.

Note that HB 23 does not require telephone utilities or the Alaska Public Utilities Commission to provide discounted rates or service.

FISCAL NOTE

A zero fiscal note was presented by the Alaska Public Utilities Commission.

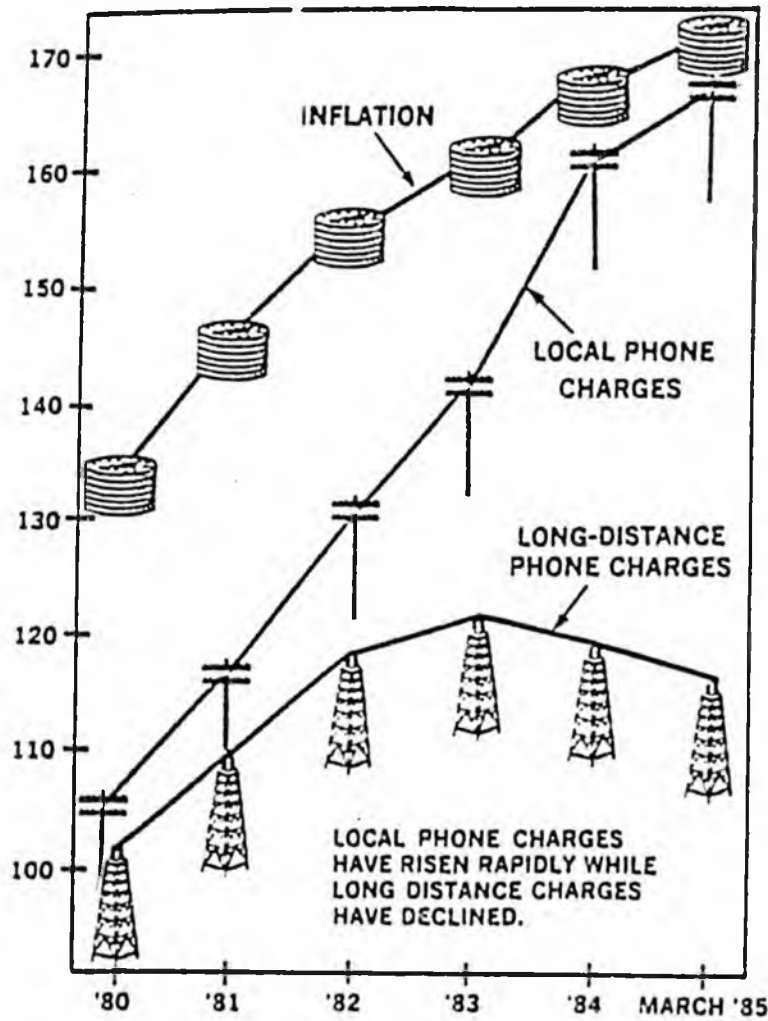
POSITIONS OF AFFECTED GROUPS

Both the Alaska Public Utilities Commission and the Alaska Telephone Association support this bill.

*Back-up CS HB 23
sh*

CONSUMER COSTS FOR PHONE SERVICE

BASED ON CONSUMER PRICE INDEX 1977=100



LOCAL PHONE CHARGES
HAVE RISEN RAPIDLY WHILE
LONG DISTANCE CHARGES
HAVE DECLINED.

SOURCE: Bureau of Labor Statistics

BY JO ELLEN MURPHY FOR THE WASHINGTON POST

MC

JUNEAU EMPIRE

Phone charges up as plan nears OK

THE ASSOCIATED PRESS

WASHINGTON — Telephone subscribers would pay as much as \$1.50 more each month, but long-distance rates would drop and poor households could get financial help under a plan headed for approval by federal regulators.

The plan would raise the \$2-a-month subscriber line charge in three increments, beginning in June and reaching as much as \$3.50 in

April 1989.

As the charge increases, more of the costs of the local telephone network are shifted from long-distance rates to subscribers, so the cost of long-distance goes down.

Federal Communications Commission officials estimated long-distance rates would decline by at least 15 percent over the next six years, saving consumers an estimated \$17 billion.

A small part of that savings would be used to subsidize the cost of telephone service for poor people under a new program called Linkup America.

By **CHUCK KLEESCHULT**
THE JUNEAU EMPIRE

With little fanfare is proceeding to construct Alaska natural

line.

And while it's probably months before there's much of an announcement of success selling Alaska's gas in the Far a key to obtaining financing \$10 billion project, officials of Pacific Corp. are becoming confident enough to warm up the section, if not yet the full bank.

"When we bought into this Walter Hickel pegged our bet for success at 1,000 to 1. At our recent board meeting we all thought the odds have improved — that's how much progress made," said Howard Griffith, president of Yukon-Pacific, sponsor of the all-Alaska gas line project.

Griffith is an official of Corp., the parent firm for Trans-Alaska Pipeline, which bought sponsorship of the project last year.

In 1977 former President Jimmy Carter selected a plan by Northern Energy to move Prudhoe Bay's trillion cubic feet of gas reserves to the Midwest through an oil pipeline, heading south to near the banks before following the Highway through Canada. Canadian gas discoveries in Mexico and a slower escalation of gas prices combined with the estimated \$40 billion cost of the ANGST project resulted in its nowhere.

STOCKS

THE ASSOCIATED PRESS

NEW YORK — Friday a.m.

Market prices for New York

Stock Exchange Index

PE Ratio Last Chg.

- A - A -

AMR 13.40 13.40

ASA 13.42 13.42

AT&T 10.83 10.83

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Original sponsor: Boucher

1 IN THE HOUSE
2 CS FOR HOUSE BILL NO. 23 (Telecommunications)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to reduced rates and discounted
7 service for low-income telecommunication customers."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 42.05.301 is amended by adding a new subsection to
10 read:
11 (b) Notwithstanding (a) of this section, a public utility may
12 propose a discounted service or a reduced rate for essential telecom-
13 munication services for the benefit of its low-income customers. The
14 commission may not require a utility to provide a discounted service
15 or reduced rate under this subsection. The commission may not require
16 a telephone utility to incur uncompensated costs or administrative
17 burdens that are not recoverable through an approved tariff if the
18 utility provides a discounted service or reduced rate.
19 * Sec. 2. AS 42.05.391 is amended by adding a new subsection to read:
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24 or reduced rate under this subsection. The commission may not require
25 a telephone utility to incur uncompensated costs or administrative
26 burdens that are not recoverable through an approved tariff if the
27 utility provides a discounted service or reduced rate.

1 IN THE HOUSE

BY BOUCHER

2

HOUSE BILL NO. 23

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to reduced rates and discounted
7 service for low-income telecommunication customers."

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 42.05.301 is amended by adding a new subsection to
10 read:

11 (b) Notwithstanding (a) of this section, a public utility may
12 initiate a discounted service or a reduced rate for essential telecom-
13 munication services for the benefit of its low-income customers. The
14 commission may not require a utility to provide a discounted service
15 or reduced rate under this subsection. The commission may not require
16 a telephone utility to incur uncompensated costs or administrative
17 burdens that are not recoverable through an approved tariff if the
18 utility provides a discounted service or reduced rate.

19 * Sec. 2. AS 42.05.391 is amended by adding a new subsection to read:

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24 or reduced rate under this subsection. The commission may not require
25 a telephone utility to incur uncompensated costs or administrative
26 burdens that are not recoverable through an approved tariff if the
27 utility provides a discounted service or reduced rate.

CS HB 23

CHANGES MADE BY COMMITTEE SUBSTITUTE

The word, "initiate" in lines 12 and 21 of HB 23 was changed to "propose".

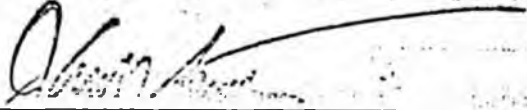
The effect is to prevent a telephone company from initiating a discounted service program without a review of the program by the Alaska Public Utilities Commission. A discounted service to some rate payers could result in an increase in rates to the other rate payers. A review by the APUC of a proposed discounted rate program will prevent unreasonable rate burdens being placed on telephone customers who do not receive the discounted rate.

HB 23: Telecommunications "Lifeline Services."

The Alaska Public Utilities Commission supports this bill with the following amendment: lines 12 and 21 change "initiate" to "propose."

The Commission believes that it should have the authority to review discounted rates and the recovery of those rates. The proposed change would clarify the Commission's authority to review utility proposals.

There is no fiscal impact associated with this bill.


J. Anthony Smith, Commissioner

DATE: March 9, 1987

STATE OF ALASKA 1987 LEGISLATIVE SESSION

FISCAL NOTE

REQUEST:

Bill Version: CSHB 23(Tele)

Publish Date: HOUSE 3/4/87

Revision Date: _____

Agency Affected: Dept. of Commerce & Econ. Dev.

Title: "An Act relating to reduced rates & discounted service for low-income tele. customers"

BRU: Alaska Public Utilities Commission

Sponsor: _____

Components: _____

Requestor: Becky Bear**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Although implementation of this proposed legislation could result in some new filings before this Commission, the number of proceedings should be fairly minimal and would not likely result in the need for additional fiscal resources.

Prepared by: T. S. Moninski, II, Executive DirectorPhone: 276-6222Division: Alaska Public Utilities CommissionDate: 2/26/87Approved by Commissioner: [Signature]Date: 3/23/87Agency: Commerce and Economic DevelopmentDistribution (by preparer): U

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION

FISCAL NOTE

REQUEST: _____

Bill Version: HB 23
Publish Date: _____

Revision Date: _____
Title: "An Act relating to reduced rates & discounted service for low-income tele. customers"

Agency Affected: Dept. of Commerce & Econ. Dev.
BRU: Alaska Public Utilities Commission

Sponsor: _____
Requestor: Becky Bear

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Although implementation of this proposed legislation could result in some new filings before this Commission, the number of proceedings should be fairly minimal and would not likely result in the need for additional fiscal resources.

Prepared by: T.S. Moninski, II, Executive Director
Division: Alaska Public Utilities Commission

Phone: 276-6222
Date: 2/26/87

Approved by Commissioner: [Signature]
Agency: Commerce and Economic Development

Date: 2/26/87

Distribution (by preparer): ✓
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

(5)

HOUSE COMMITTEE REPORT

3/4

Date referred: 1/19/87

FURTHER REFERRALS:

Labor & Commerce

DATE: 2/26/87

The House Special Committee
on Telecommunications

Committee has considered HB 23

"An Act relating to reduced rates and discounted service for low-income telecommunications customers."

RECOMMENDS:

- CSNB 23(222)
CS FOR HOUSE BILL 23 TELE
- ☒ replace with CS FOR HOUSE BILL 23 TELE ☒ the same title
☐ attached amendment(s) ☐ a new title
- ☒ do pass
☐ do not pass
☐ no recommendation
☐ individual recommendations
☐ additional referral to the _____ Committee

ADOPTS: ☐ _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- ☐ fiscal impact ☐ same as previous fiscal note published _____
☐ zero fiscal note ☐ same as previous zero fiscal note published _____
☒ zero with analysis

SIGNING TO PASS:

[Handwritten signatures]

SIGNING OTHER RECOMMENDATIONS:

[Handwritten signatures]
no rec
no rec

[Handwritten signature]

Chairman's signature

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/4/87

FURTHER REFERRALS:

DATE: 3/10/87

The Labor & Commerce Committee has considered HB 23

"An Act relating to reduced rates and discounted service for low-income telecommunications customers."

RECOMMENDS:

- [] replace with CS HB 23 (TELECOMMUNICATIONS) [X] the same title
[] attached amendment(s) [] a new title
- [] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: [] _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact [] same as previous fiscal note published _____
[] zero fiscal note [] same as previous zero fiscal note published _____
[] zero with analysis

SIGNING DO PASS:

Dave Donley
Elliot
Conrad
Chapman
Ed. A. Baker

SIGNING OTHER RECOMMENDATIONS:

Walt J. Jorgensen

Dave Donley

Chairman's signature

RESEARCH QUESTIONS and ANSWERS

HB 23

QUESTION: How do other states handle the "lifeline" issue, and how do they pay for the subsidized low-income service?

ANSWER: Approximately 11 states currently have some type of "life-line" or low income telephone user legislation. The program is usually tied into a social service program (i.e., elderly, food stamps, disabled, etc.). The amount of the subsidy is usually in the two dollar to ten dollar range per person per month.

Some of the programs are tied into the Federal lifeline program whereby states with approved lifeline programs are forgiven up to \$1 of the current \$2 subscriber line access fee charges by the FCC. The state is then responsible for the remaining \$1. Some states have used the Federal lifeline program exclusively while others have used this and some form of taxation to recover the remaining dollar.

Another approach taken by some states is to allow low income customers the ability to spread out over several months the telephone installation charges.

Alaska Telephone Association

201 E. 56th Avenue / Suite 230
Anchorage, Alaska 99518
(907) 563-4000

W. D. Pyron
President

Ted Lehne
Executive Director

14 December 1987

Senator Tim Kelly, Chairman
Senate Labor & Commerce Committee
PO Box 21-0001
Anchorage, AK 99521

Dear Senator Kelly:

Thank you for spending time with Sharon Macklin and me on November 18 to discuss CSHB 23 on reduced rates and discounted service for low income telecommunications customers.

At that meeting you expressed concern that telephone companies would use adoption of the bill as a method of offering discounted service to low income customers who do not really need it, and suggested we offer an amendment. I have attached a copy of the bill and suggest that the words "who qualify for federal or state administered means-test social services assistance programs." be added in each of the appropriate places.

These qualifying words first preclude local, or Native corporation designed social service programs. Second they limit to means-test programs. Third they specify social service assistance programs.

The alternative to this is to list qualifying programs, such as SSI, AFDC, food stamps, etc. But in a diverse state like Alaska this could broaden the program. For example, I have attached a copy of the ordinance adopted by the City of Fairbanks City Council which established their program. They are not economically regulated by the APUC.

Their program offers assistance to those receiving SSI and AFDC. If the state statute included food stamps, it would be difficult for that community to exclude food stamp recipients. By the general language I have proposed, public utilities are free to limit the program in their area, if that is what they desire.

I have also enclosed the latest bulletin from the FCC and consumer groups on Lifeline service and the new "Link Up America."

As we explained, this new program is a substantial national effort, paid for out of a pool of money from long distance calls. A very small percentage of each long distance call goes into this pool, whether the state participates in the Link Up program or not.

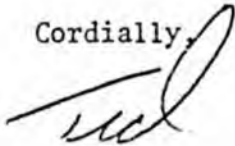
It is unlikely there will be much interest in this program in the rural villages since people can summon aid without a phone, and costs are already high. The real benefit will be in areas surrounding major communities where people often live some distance from their neighbor and need the phone to summon help in an emergency.

Since the affect of implementing such a program is to provide incremental income to local companies, it is unlikely to result in rate increases. I have seen no evidence from other states that have implemented these discounted programs that they have caused rate increases for other customers.

We would not be in favor of a bill that would mandate companies to offer reduced rate services. But we do believe in local option, and therefore support the legislation offered by the House Special Committee on Telecommunications.

If we can provide you with additional information, please let me know. It was good to see you again. Best wishes for the holidays.

Cordially,

A handwritten signature in dark ink, appearing to read 'Ted', with a large, sweeping flourish extending upwards and to the right.

Ted Lehne
Executive Director

cc: Sharon Macklin
Rep. Red Boucher

Introduced by: Deputy City Manager -
Utilities
First Reading: April 6, 1987

ORDINANCE NO. 4625, As Amended

AN ORDINANCE TO AMEND FGC 12.119.1.4,
LIFELINE TELEPHONE SERVICE, BY DELETING
THE RESTRICTION ON LIFELINE TELEPHONE
CUSTOMERS LOCAL CALLS; AND SETTING AN
EFFECTIVE DATE.

WHEREAS, Ordinance No. 4457 was adopted August 5, 1985, and
enacted FGC 12.119.1.3, Lifeline telephone service; and

WHEREAS, Section 2 of this ordinance states that it would
become effective as soon as the general manager certified that he had
the equipment to implement such service; and

WHEREAS, it was anticipated that the new digital switch
would make it easy to limit individual customers to making calls to a
limited number of preselected local numbers; however, this can be done
only by tying up a substantial capacity of the switch and at
considerable effort; and

WHEREAS, there are approximately 400 recipients of SSJ in
the Fairbanks area and it is desired that this service be provided to
them without restrictions on the local calls they may make; and

WHEREAS, there are approximately 260 households who qualify
for aid to families with dependent children, and it is also desired
that this service be provided to them.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE
CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. That FGC Chapter 12, Utilities, Article I, General Provisions; Rates, Sec. 12.119.1.4, Lifeline telephone service, be amended as follows:

Sec. 12.119.1.4. Lifeline telephone service.

(a) Telephone customers who furnish verification from the Social Security Administration that they are recipients of supplemental security income (SSI) or who furnish verification from the Alaska Department of Health and Social Services that they are recipients of payments for Aid to Families with Dependent Children (AFDC) are entitled to a lifeline telephone rate.

(b) The lifeline telephone rate will be one-half (1/2) the regular residential telephone tariff rate for basic telephone service. Lifeline customers will pay the same charges as others for all other services, including but not limited to installation, repair, toll calls, etc.

[(C) LIFELINE TELEPHONE CUSTOMERS WILL BE LIMITED TO MAKING OUTGOING CALLS TO FIVE (5) PRESELECTED LOCAL NUMBERS, ONE (1) OF WHICH SHALL BE THE EMERGENCY NUMBER AND FOUR (4) ADDITIONAL LOCAL NUMBERS THEY MAY SELECT, AND MAY RECEIVE UNLIMITED INCOMING CALLS.]

(c) [(D)] Applicants for lifeline service must furnish verification from the Social Security Administration that they are receiving supplemental security income (SSI) or the Alaska Department of Health and Social Services of payments for Aid to Families with Dependent Children (AFDC). Once a year they [AND] must furnish reverification from the Social Security Administration that they continue to receive SSI or from the Alaska Department of Health and Social Services that they continue to receive payments for AFDC [ONCE A YEAR]. The burden will be upon the applicant to secure such verification. Twelve (12) months after the last verification, the applicant will be charged the full regular telephone rate unless and until such verification is furnished to FMUS.

(d) [(E)] Applicants will be limited to those people receiving supplemental security income (SSI) or AFDC who are heads of household in which they reside. Recipients of supplemental security income (SSI) or AFDC who reside in a

household with adults (other than a spouse) who are not entitled to SSI or AFDC are not eligible for lifeline telephone service.

SECTION 2. That the effective date of this ordinance shall be the 9th day of May, 1987.

BILL WALLEY, Mayor

ADOPTED:

ATTEST:

CARMA B. ROBERSON, City Clerk

LIFELINE TELEPHONE SERVICE

The City of Fairbanks dba Municipal Utilities System, has passed an amended Ordinance 4457 effective April 25, 1987.

The purpose of the amendment is to allow persons receiving Supplemental Security Income (SSI) or aid to Families with Dependant Children (FDC), the availability of telephone service at a reduced basic rate.

REQUIREMENTS FOR LTS:

Verification from the Social Security Administration or the Public Assistance Office of eligibility will be furnished to FMUS by the customer. The customer must immediately notify FMUS if the customer is later determined not eligible for either of these programs.

1. Applicants will be limited to those people who are heads of household in which they primarily reside.
2. The lifeline telephone rate will be one-half (1/2) the regular residential telephone rate for basic telephone service. Lifeline customers will pay the same charges as others for all other services, including but not limited to installation, repair, toll calls, etc.
3. The applicant will have the standard denied toll calling in conjunction with the reduced rate and deposit.
4. If the applicant chooses the option of unrestricted long distance calling, the applicant will be required to pay the full deposit charge.
5. The applicant is responsible for furnishing verification, and reverification every 12 months from the agency that qualified the applicant for Lifeline Telephone Services.
6. On the billing cycle that includes the anniversary date of the customers Lifeline Telephone Service, the customer will be charged the full rate unless verification has been furnished.

FOR INFORMATION CALL 456-1010.

lifeline/bjr/a



Quarterly

Update

Vol. 1, No. 1

• A Telephone Service Assistance Program •

December, 1987

Link Up America Begins Providing Telephone Service Assistance to Low Income Americans

Link Up America is a new telephone service assistance program directed to low income households currently without telephones. The program is sponsored by the Federal Communications Commission in cooperation with the United States Telephone Association, the Consumer Federation of America, and state regulators.

The Link Up America program was initiated to address the specific concern that not all Americans can afford the connection and installation charges required to obtain access to the telephone network.

Recommended by the Federal-State Joint Board, the program was adopted by the FCC on April 16, 1987. Link Up America was officially introduced at a teleconference on October 6, 1987 in Washington, D.C. (see separate article).

To qualify for Link Up America services, an individual:

- Must not have had telephone service in his or her home for the last three months;
- Is not claimed as a dependent for federal income tax purposes, unless the person is over 60 years old;
- Has not received telephone connection assistance within the last two years; and
- Meets local income and eligibility requirements determined by each state.

Link Up America is designed

as a national consumer education and outreach program. Therefore, its success on the state and local level requires the cooperative efforts of local telephone companies, consumer and community organizations, and state regulators and legislators. Together, these groups are organizing local coalitions to reach the program's target audiences.

Because of the make-up of the target audience, many of whom cannot be reached through conventional channels of mass communication, much of the Link Up effort will focus on working with people on the local level on a one-on-one basis. Outreach efforts also include written materials and radio and television public service announcements.

Local organizers, supported by the national sponsors, are developing state-specific plans to ensure grass roots success.

Pilot programs have been established in Arkansas, the District of Columbia, Texas and West Virginia (see separate reports). These pilot programs do not, however, preclude any state or telephone company outside the study areas from offering Link Up America assistance now. In fact, eleven additional states have already received FCC certification.

As part of the initial outreach effort, support materials written and developed in Washington, D.C., have been made available to the Link Up coalitions in the pilot areas. Community organ-

Continued on Page 2



Luverne McClinton, secretary of the St. Francis Housing Authority (Forrest City, Arkansas), explains the Link Up America program to Carol Bishop.

An Open Letter from the FCC

On behalf of the Federal Communications Commission, I applaud the efforts of all those involved in implementing the Link Up America telephone service assistance program. A great deal of work has been accomplished since the program's kick off on October 6th. People are involved, and most importantly, our commitment to universal service has been reaffirmed, as we strive to provide telephone service to those low income households currently not on the telephone network.

The main objective of this program is to make telephone service more affordable for low income individuals presently without phones. To achieve this goal, Link Up America will pay for one half of the installation and connection charges, or an amount up to \$30. In addition, telephone companies are encouraged to offer interest-free deferred payment schedules on the remaining balance, and where appropriate, to reduce or waive any deposit that may be required.

We estimate the number of low income households that are potentially eligible for Link Up America services to be approxi-



Dennis Patrick

mately five million nationwide. In general, those individuals who do not have telephone service and qualify for social services assistance programs are eligible for the Link Up America program.

In an effort to test implementation and communication methodologies, pilot programs have been established in Arkansas, the District of Columbia, Texas and West Virginia. Link Up America coordinators in these areas have brought together coalitions of local telephone companies, state regulators and legislators, civic organizations, and consumer and religious groups to pool their

resources and outreach efforts in order to contact the program's target audience. The level of involvement and commitment in this regard has been overwhelming, as you will see in this quarterly report.

Link Up America supporters have been distributing flyers, tacking up posters, preparing mass mailings, and manning information hotlines in a grass roots effort to spread the word about the program's availability. Those out in the field are relying on one-on-one contact to inform the low income households of the program.

These pilot programs are good examples of what can be accomplished when government, industry, and citizen groups work together.

Including the pilot programs, 14 states and the District of Columbia have now adopted Link Up America, and it is anticipated that by year-end, many more will have joined in the national campaign. To date, the states that have been certified include: Alabama, Arkansas, Colorado, Connecticut, Maine, Maryland, Montana, New Jersey, New York, North Carolina, Rhode Island, Texas and Virginia.

To ensure the continued success of the Link Up America program, ongoing commitment to our grass roots efforts is essential. I call upon everyone involved with this program to carry on—to maintain the current momentum—to make certain that all eligible Americans are given the opportunity to "link up" to the telecommunications network.

A handwritten signature in cursive script that reads "Dennis Patrick".

Dennis Patrick
Chairman, FCC

Link Up Begins

Continued from Page 1

izers are encouraged to tailor the information materials to fit their specific needs.

During the first six months of implementation, the activities in these pilot areas are being monitored monthly. The Link Up coalitions will provide written reports on the progress of their programs.

At the end of the six months, the program will be rolled out nationwide and monitored on a

quarterly basis. A summary of the pilot areas' data will be distributed to assist other states in implementing their own program.

Local coalition efforts in the pilot areas have been promising. The word is getting out, and low income Americans are being connected to the telephone network.

Link Up America will offer eligible Americans the opportunity to participate in and enjoy the benefits of the information age—through the telephone.

Teleconference Oct. 6 Kicks Off New Telephone Assistance Program

The Link Up America program was officially kicked off at a teleconference held in Washington, D.C. on October 6. In attendance were representatives from the federal, legislative and regulatory arenas, as well as telephone industry and consumer representatives. Collectively and individually, all endorsed and voiced their support for this new telephone service assistance program.

The Link Up America program will only be as successful as the organizations that support it. As evidenced by the statements made at the teleconference, the program received a most promising send off.

In introducing the program, Federal Communications Commission Chairman Dennis Patrick stated, "The kick off of 'Link Up America' begins a major effort by the FCC, state and local officials,



Speakers at the Link Up America kick off Oct. 6 (left to right): Marion Barry, Edward Burke, Virginia Knauer, John Sodolski (speaking), Dennis Patrick (behind podium), Mickey Leland, Phillip Campbell, Edward Whitacre, and Stephen Brobeck.

telephone companies, and consumer groups to reach low-income individuals currently without telephone service, and to connect them to our telecommunications network."

Representing the local telephone industry, John Sodolski, president of the United States Telephone Association em-

phasized, "The industry is committed to this program and is ready to face the challenges it presents head-on."

In addition to Sodolski, telephone companies in the pilot program areas were represented by Phil Campbell, president of Bell Atlantic and Ed Whitacre, vice chairman and chief financial officer of Southwestern Bell.

"On behalf of the Bell Atlantic companies, we are fully committed to the program from top to bottom," said Campbell. "You may be sure we will do everything we can see to it that its benefits are made available to everyone qualified to receive them."

Said Whitacre, "We look forward to the challenge of reaching out to the potential Link Up subscribers in our service areas... I am confident Southwestern Bell has the kind of people who--along with state officials, local consumer representatives, and independent telephone companies--will produce an implementation plan the rest of the country can follow."

To lend support from the consumer sector were Steve Brobeck, executive director of the Consumer Federation of America and Virginia Knauer, special adviser

Congressional Involvement Growing In Link Up Program

In support of Link Up America, members of Congress are being asked to appear in 30 second public service announcements (PSAs). Through these spots, congressmen can inform their constituents, who may be eligible for the program, how to procure Link Up services in their area.

Congressmen are also being asked to distribute Link Up America brochures through their Washington or district offices.

The PSAs, to be broadcast on local television stations, will be accompanied by returnable monitoring cards in order to record the number of times the spots are shown. The goal of the Congressional PSA portion of Link Up America is to have all congressmen produce a PSA for viewing in his/her local area.

Members who have completed PSAs for the pilot sites--Arkansas, Texas, West Virginia, and the District of Columbia--include:

Rep. Joe Barton (R-TX)
Rep. Mickey Leland (D-TX)
Rep. Alan Mollohan (D-WV)
Rep. Nick Joe Rahall (D-WV)
Sen. Jay Rockefeller (D-WV)
Rep. Tommy Robinson (D-AR)
Rep. Harley Staggers (D-WV)
Rep. Bob Wise (D-WV)

The remaining congressmen in the pilot areas have been contacted and are in the process of scheduling time to record their PSA.

The Congressional PSA Program is a vital element of Link Up America's grass roots efforts to get the word out to eligible Link Up subscribers.

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Arkansas



"Link Up Arkansas" volunteers gather on the steps of the Pulaski County Courthouse for instructions before delivering Link Up materials.

Teleconference

Continued from Page 3

to the President of the United States for Consumer Affairs.

Brobeck emphasized the importance of face-to-face communication by coalitions made up of community leaders and social service workers. Knauer gave the endorsement of the White House to the Link Up program, and also encouraged the establishment of local coalitions.

Speaking on behalf of the state of Texas (one of the four pilot areas) while also stressing the involvement of congressmen in the program, was Rep. Mickey Leland (D-TX). "I am pleased to see that 'Link Up America' will be a cooperative effort—involving consumer and community organizations, state and federal legislators and regulators, and the local telephone industry."

Ed Burke, chairman of the Rhode Island Public Utilities Commission and member of the Federal-State Joint Board stated that, while this is a national program, the key to its success rests on the involvement put

forth at the state level.

Presenting a local perspective was Marion Barry, Mayor of Washington, D.C. (also one of four pilot areas). Barry felt it was appropriate the Link Up America program would begin, in part, in the nation's capital.

Speaking via satellite from two of the other pilot areas were Arch Moore, Governor of West Virginia, and Bill Clinton, Governor of Arkansas. As with Washington, D.C., television, print and radio reporters were able to participate in a live question and answer period through the satellite hookup.

The enthusiasm and commitment demonstrated at the teleconference have grown and become more concrete as the program continues to roll out. The list of participating organizations is increasing almost daily (see back page). With organizations like these forming the backbone of the program, there is every indication Link Up America will be successful in hooking up many eligible Americans who currently are without telephone service.

Link Up information "blitz" spans 75 counties.

Arkansas' Link Up America effort got underway on Saturday, October 31, with a flourish and a considerable amount of hard work. Volunteers went on a 75-county "blitz" spreading the word on Link Up America—everywhere from government offices to laundromats.

In Pulaski County, the most populous in the state and also the site of the capital city, workers attended a rally on the courthouse steps before distributing the materials.

As final instructions were given, posters and brochures were divvied up among the volunteer groups as local reporters and photographers looked on. Because of all the red markers that began appearing on the large highway maps as workers plotted their distribution points, one amused spectator asked, "Are these guys planning a revolution or something?"

About 400 volunteers drove nearly 8,000 miles throughout the state during the weekend, to get the materials into place at 1,500 locations.

Most telephone company business offices and government agencies had already received their supplies in the mail. In all, more than 3,000 posters and 50,000 brochures were in place on November 2, the official starting date for "Link Up Arkansas."

Volunteers from telephone companies (many of them members of community relations teams), the Arkansas Telephone Association and human services agencies, worked with community organizations such as the Arkansas Community Organizations for Reform Now (ACORN), senior citizens' groups, the NAACP, church groups and ministerial alliances.

Continued on Next Page

Arkansas

These groups worked together, driving to grocery stores, banks, restaurants, churches, community centers and other locations selected as delivery sites by county coordinators. City and county officials, nutritionists, social workers and members of local economic development groups also assisted.

Apparently, they had chosen their locations well. Calls began in earnest at telephone company business offices all over the state the following Monday. One east Arkansas business office had to stay open until 8:00 p.m. the first night to handle all the Link Up America telephone calls.

Many people simply were curious about the program, but an encouraging number turned out to be eligible for assistance.

By the end of the first two weeks (November 13), eight telephone companies had reported to the Arkansas Telephone Association a total of 2,357 business office inquiries with 494 customers undertaking the certification process.

Southwestern Bell, the state's largest single telephone company, had received 2,000 inquiries, 800 of those were sent certification cards.

News coverage of the operation was favorable and widespread. County coordinators tracked more than 70 newspaper articles and radio and television reports about the Link Up effort so far. Radio stations have also begun using public service announcements.

In the words of one volunteer, "If this doesn't work, it sure won't be from lack of effort."

"Link Up Arkansas" is officially sponsored by a coalition made up of the Arkansas Telephone Association, ACORN and the state Attorney General's Office. Although not formally a part of

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Texas

Thirty-seven consumer and social service organizations meet to discuss Link Up efforts.

The largest telephone company in Texas, Southwestern Bell officially launched its Link Up America program with an Information Coalition session on November 13 in Austin. Thirty-seven state consumer and social service organizations met to map out implementation strategies for Link Up America in Texas. Their program went into effect on November 15.



William Free (left), vice president-revenues and public affairs for Southwestern Bell and Dennis Thomas (right), chairman of the Texas Public Utility Commission address local specifics during the Link Up America press conference.

An estimated 233,500 households, or nearly four percent of all Texas households, do not have telephone service. The attendees shared their ideas on how to reach the 180,000 of those low-income persons without telephone service who reside in Southwestern Bell territory. A seven-minute video outlining the Link Up America program was shown, and each participant received a packet of material to be used in his or her outreach efforts.

The groups that form the Texas Link Up America program include: Texas' Department of Human Services, Agricultural Extension Service, the Employment

Commission, the Department on Aging, the United Way of Texas, the Texas Senior Citizens Association, the Gray Panthers, the Coalition of Texans with Disabilities, and the Governor's Committee for Disabled Persons.

The following are some of the points that were discussed in the meeting:

- The American Association of Retired Persons (AARP) will begin a program to collect old phones from fellow Texans, as well as encourage their local chapters to raise money to buy phones to donate. In addition, each AARP member will be asked to identify five to ten people who may be in need of Link Up assistance.

- The Texas Department on Aging will educate their members about the availability of Link Up services through the department's publications, as well as work with the Texas Association for Information Referral's 927 senior citizen and nutrition centers.

Participants in other programs will also be called upon to spread the word about Link Up America, including providers of home delivered meals and meter readers, who participate in the gatekeeper program.

- The Texas Department of Human Services will provide Link Up America bill inserts to recipients of Aid to Families with Dependent Children (AFDC) and Food Stamps. A Link Up America presentation will be made at the Department's next board meeting, and an information letter on the program will be sent to all Department of Human Services staff in the 350 local offices throughout the state.

- The United Way of Texas indicated they would be putting Link Up America information in their newsletter. Bill Link, executive

Continued on Page 7

Washington, D.C.

D.C. program to work through community and civic organizations.

In the District of Columbia, C&P Telephone Company and Bell Atlantic have embarked on an aggressive program to reach potential Link Up America subscribers. The D.C. program is focusing on working through local community and civic organizations.

C&P Telephone Company has six community relations teams that have distributed approximately 10,000 brochures, 5,000 fact sheets and 50 posters throughout Washington, D.C. In addition, bill inserts were mailed to all 400,000 C&P customers in the District.

Efforts to reach low income households in the District can be attributed to an active coalition, formed to assist and enhance C&P's outreach program. Members of the District of Columbia's Link Up America coalition include representatives from the Public Service Commission, Office of the People's Counsel, the D.C. Energy Office, the American Association of Retired Persons, the D.C. Office of Consumer and Regulatory Affairs, the Gordon Adult Education Center, the Center City Community Corporation and the D.C. State Council of Senior Citizens.

As a member of the coalition, the D.C. Energy Office has

already begun to identify qualified applicants by furnishing updated lists to the C&P business office once a week. Letters are then sent to these potential subscribers, notifying them they qualify for Link Up services.

Members of the coalition have also visited several lunch sites at churches and apartment complexes in conjunction with the Urban League Lunch Program. Brochures, fact sheets and posters were distributed and a question and answer period followed. Similar visits are planned at least three times a month.

Also, a C&P speakers bureau has scheduled Link Up America presentations at six churches and homes for the elderly.

The coalition has also identified a large Spanish population in the District that would qualify for Link Up America services. Brochures, fact sheets and posters have been translated into Spanish for distribution.

In addition to the activities mentioned above, C&P has identified many avenues that will be pursued in the near future to reach as many low income households as possible.

C&P is considering reviewing its own records of accounts that have been disconnected for at least three months for reasons such as "non-payment" and "cannot afford," to identify candidates. The company may also

review their records of recent new connect applications that were not installed because advance payments or deposits were not paid.

C&P is also considering distribution of information through the Urban League's Low Cost Meal Program and the similar "Meals on Wheels" program. Both deliver food to the needy throughout the city.

Cross checking the customers of D.C. Natural Gas, Pepco, and the water service with C&P records to identify households without telephones will also be looked into. Once the list is compiled, an effective means of marketing Link Up America to these people will be developed. C&P will also consider a mailing or visitation program to reach all citizens who qualify for energy assistance, and are shown as having no telephone service.

Other organizations to be contacted for assistance are: the United Way, the D.C. Unemployment Agency, the Advisory Neighborhood Commissioners and District of Columbia Council Members.

Information for this article was provided by Veronica R. Brown, staff manager for C&P Telephone.

Link Up Quarterly

This publication is produced quarterly on behalf of the national sponsors of the Link Up America Telephone Assistance Program. The Federal Communications Commission, the United States Telephone Association, and the Consumer Federation of America organizational contacts are:

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Steve Brobeck, CFA
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Paul Rogoski, USTA
202/835-3158



The C&P Speakers Bureau has six presentations on the Link Up program scheduled in sites throughout Washington, D.C.

West Virginia -

Direct mail campaign reaches 90,000 low income West Virginians.

From mid-October through the end of November, 90,000 low income people in West Virginia learned about Link Up America through a direct mail program. The West Virginia Department of Human Services, a member of the state's Link Up America coalition, mailed applications to public assistance and Food Stamp recipients in the state.

"The direct mail program has already produced results," said Roberta Fowlkes, C&P Telephone Company consumer affairs manager and Link Up America coordinator for West Virginia. "In October, more than 700 applications were received in business offices of the ten telephone companies serving the state," she said.

The West Virginia Commission on Aging, another member of the coalition, also launched a statewide campaign. Outreach workers with the Area Agencies on Aging in each of 55 counties, have received packets of informa-

Texas

Continued from Page 5

vice president of the United Way of Texas, would also be sending a letter to all state chapters.

In addition to Southwestern Bell, General Telephone of Texas is also participating in Link Up America, and United Telephone indicated it will become a participant in early 1988.

A special group of service representatives from Southwestern Bell is in charge of handling the Link Up America inquiries in Texas. Customers can apply for Link Up America services by calling 1/800-832-LINK.

Information for this article was provided by Debra Hollingsworth, area manager-community relations for Southwestern Bell.



Irene Ryan of Charleston, West Virginia, places a Link Up America poster in the Senior Nutrition Site at Career Career Center.

tion on the program to assist in educating clients about Link Up benefits.

Outreach workers will assist applicants directly, by certifying eligibility for the Department of Human Services. This certification procedure is important, since West Virginia's eligibility requirements include low income people who do not currently receive any assistance. These outreach workers can identify eligible candidates not known by Human Services.

"These two state agencies have taken active measures to help eligible people learn about the program," Fowlkes said. "We feel with these combined efforts, we are reaching the large majority of eligible people very early in the trial period."

In December, more than 4,000 people who receive home delivered meals will also get a flyer on Link Up America, with instructions to talk with their outreach worker about the program.

Other members of the coalition are also doing their part. Many have included information in their publications, spreading the word throughout their organizations and membership.

General Telephone Company held Link Up America activities in two cities this past November.

Sandra Walls, public affairs manager, was in Romney, West Virginia on Tuesday, November 10, and in Charlestown Wednesday, November 11, to provide information to the public.

In addition to the Department of Human Services, the Commission on Aging and the telephone companies, the coalition includes local chapters of the National Council of Jewish Women, the National Association of Social Workers, the West Virginia Coalition on Legislation for the Elderly, the West Virginia Public Service Commission, the office of the Consumer Action Against Poverty, the League of Women Voters, and the Council of the Southern Mountains.

The next step in West Virginia's plan is to deliver public service announcements, recently videotaped by the state's congressional representatives in Washington, D.C., to television stations in the state. So far, announcements have been completed by Representatives Mollohan, Rahall and Wise and by Senator Rockefeller. In addition, all the congressional offices will distribute information on the program (see separate article).

Information for this article was provided by Roberta P. Fowlkes, staff manager-employee information/consumer affairs for C&P Telephone of West Virginia.



**LinkUp
America**

Participating Organizations

American Association of
Retired Persons
American Gas Association
Area Agencies on Aging
Arkansas Attorney General's
Office
Arkansas Community
Organizations for Reform
Now
Arkansas Public Service
Commission
Arkansas Telephone Association
Center City Community
Corporation
Coalition of Texans with
Disabilities
Consumer Federation of
America
Council of the Southern
Mountains

Arkansas

Continued from Page 5

the sponsoring coalition, the state Public Service Commission has given its endorsement by approving the tariff filings for each of the 28 telephone companies in the state.

Information for this article was provided by Greg Russell, secretary to the district staff manager-news relations for Southwestern Bell.

D.C. Energy Office
D.C. Office of Consumer and
Regulatory Affairs
D.C. Office of People's Counsel
D.C. Public Service
Commission
D.C. State Council of Senior
Citizens
Federal Communications
Commission
Food Bank Network
Gordon Adult Education Center
Governor's Committee for
Disabled Persons (Texas)
Gray Panthers
League of Women Voters
NAACP
National Association of
Broadcasters
National Association of
Regulatory Utility Commis-
sioners
National Association of Social
Workers
National Council of Jewish
Women
National League of Cities
Office of the Consumer
Advocate of West Virginia
Retired Senior Volunteer
Program

Southwest Arkansas
Development Council
Texas Agriculture Extension
Service
Texas Department on Aging
Texas Department of Human
Services
Texas Employment Commission
Texas Public Utility
Commission
Texas Senior Citizens
Association
United States Telephone
Association
United Way of Texas
West Virginia Coalition on
Legislation for the Elderly
West Virginia Commission on
Aging
West Virginia Department of
Human Services
West Virginia Multi-County
Community Action Against
Poverty
West Virginia Public Service
Commission
Young Women's Christian
Association
(As of November 30, 1987)



Quarterly

Update

FIRST CLASS MAIL
U.S. POSTAGE
PAID
Merrifield, VA.
Permit No. 405

NWSLTR

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