

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5424 SLAB HB 23

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 IXCs directly for the interstate lifeline revenue requirement, covering both the existing SLC waiver lifeline program and our recommended service commencement assistance program. IXCs 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 IXCs 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. LECs participating in the

120 See infra paras. 72 and 87.

121 Under present practice, LECs 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 IXCs; 4) centralizes billing and collection for these funds; and 5) promotes and emphasizes the national interest in maintaining universal service.

78. IXCs 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 IXCs 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 IXCs as well as the distribution of revenues to qualifying LECs.

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 IXCs 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 IXCs. We believe that our modification more fairly distributes the responsibility for high cost assistance funding among a greater number of the IXCs, 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, 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.

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

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 IXCs 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 IXCs 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).

1178 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 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 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 ~~LTE~~ 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

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- 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 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 targeted 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.

- (l) 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.

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Public Utilities

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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 notice 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. 86-868 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 subscriber on 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

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 991 (1983).

¹⁸ *Further Report on the Effects of Federal Decisions on Universal Service*, FCC No. 84-636, (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.

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

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 6712-01-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 2-26-85; 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 16318 (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 990 (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.

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. CET 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

¹²A 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).

¹³CC 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. The 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 *Id.* 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	

	1983	1984	1985
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	

	1983	1984	1985
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	

	1983	1984	1985
Telephone Subscribership—Households With \$10,000-\$12,499 in Annual Income ¹			
March		90.0	89.5
July		89.7	89.7
November	89.7	89.4	

¹ *Id.* 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.

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 subscribers' 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 retardation 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 1986 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 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). 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

²³This recommendation is made pursuant to sections (i) and (j), 5, 201, 302, 203, 205, 210, 221, 403 and 410 of the Communications Act, as amended, 47 U.S.C. 155 (j) and (j), 155, 201, 202, 203, 205, 210, 221, 403 and 410.

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 12-26-85; 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 Newhort 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, 1082, 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 Mewhort ("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

¹Population figures were taken from the 1980 U.S. Census.

Report 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.

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 S'Cs 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.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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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. 18,316 (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 Mimeo 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 .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