

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matters of:)	
)	
Changes to the Board of)	
Directors of the National Exchange)	CC Docket No. 97-21
Carrier Association, Inc.)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	

**REPORT and ORDER and
SECOND ORDER on RECONSIDERATION**

Adopted: July 17, 1997

Released: July 18, 1997

By the Commission: Chairman Hundt and Commissioners Quello and Ness issuing separate statements; Commissioner Chong dissenting and issuing a separate statement.

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I. INTRODUCTION

1. In the Universal Service Order released on May 8, 1997,¹ we determined that, subject to changes in its governance, the National Exchange Carrier Association (NECA) should serve as the temporary administrator of the universal service support mechanisms established pursuant to section 254 of the Communications Act of 1934, as amended.² In this Order, we direct NECA to create an independently functioning not-for-profit subsidiary through which it will administer temporarily certain portions of the federal universal service support mechanisms. We conclude that NECA's creation of an independently functioning subsidiary, in accordance with the directives set forth below, will assure significant industry-wide representation in the administration of the universal service support mechanisms.

2. In this Order, we also reconsider, on our own motion,³ our determination in the Universal Service Order that the universal service administrator should select a subcontractor to manage the applications process for schools and libraries. In lieu of the selection of a subcontractor, we direct that NECA create an unaffiliated, not-for-profit corporation to manage the application and other processes relating to administering the schools and libraries

¹ Federal-State Joint Board on Universal Service, *First Report and Order*, CC Docket No. 96-45, FCC 97-157 (rel. May 8, 1996) (hereinafter, Universal Service Order), at para. 866.

² For a history of NECA's governance structure, see Changes to the Board of Directors of the National Exchange Carrier Association, Inc., *Notice of Proposed Rulemaking and Notice of Inquiry*, CC Docket No. 97-21, FCC 97-11 (rel. Jan. 10, 1997), at paras. 3-5.

³ See 47 C.F.R. § 1.108 ("The Commission may, on its own motion, set aside any action made or taken by it within 30 days from the date of the public notice of such action, as that date is defined in § 1.4(b) of these rules").

program. We further direct that NECA create another unaffiliated, not-for-profit corporation to manage specified portions of the rural health care program. We conclude that the establishment of these corporations will bring to the administration of the schools and libraries and rural health care programs the necessary expertise to ensure that the programs are administered efficiently and in the best interests of their intended beneficiaries. To ensure continuity in, and efficient administration of, the schools and libraries and rural health care programs, we also conclude that these corporations should continue to perform their designated functions even after the date on which the permanent administrator is appointed. In short, they will perform the same functions for the permanent administrator as they will for the temporary administrator. In making this determination, we reconsider the scope of the functions that will be performed by the temporary administrator and by the permanent administrator, which will be selected pursuant to the Federal Advisory Committee Act (FACA).⁴ Specifically, in this Order we assign to the unaffiliated corporations all functions associated with administering the schools and libraries and rural health care programs, except those relating to billing and collecting universal service contributions and disbursing support. Furthermore, we assign to both NECA's independent subsidiary and the permanent administrator, selected under FACA, responsibility for administering the universal service support mechanisms for high cost areas and low-income consumers, as well as collection and disbursement functions associated with the schools and libraries and rural health care programs. We also direct NECA's independent subsidiary to create a special committee of that subsidiary's Board of Directors with the power and authority to make binding decisions on designated issues relating to the universal service support mechanisms for high cost areas and low-income consumers. We further direct NECA to submit to the Commission the independent subsidiary's and the unaffiliated corporations' articles of incorporation and bylaws for review to ensure, prior to their incorporation, compliance with Commission rules. The unaffiliated corporations, NECA's independent subsidiary, and the special committee shall be accountable to the Commission for their performance of all functions relating to the administration of the universal service support mechanisms. Thus, the Commission may take appropriate action including, for example, directing the removal of one or more directors or recommending the performance of an audit by an independent auditor, if the Commission finds that the independent subsidiary is not performing its functions in accordance with Commission rules or if it is determined that its administrative expenses are unreasonable. Finally, in this Order we establish requirements by which the temporary and permanent administrators will calculate, and the Commission will approve, the quarterly universal service contribution factors.

II. BACKGROUND

A. The Universal Service Proceeding

⁴ 5 U.S.C. App. § 4(a) and 3(2)(C).

3. The proceeding culminating in our May 8, 1997 Universal Service Order began on March 8, 1996 when the Commission initiated a rulemaking⁵ to reform our system of universal service support, pursuant to section 254 of the Communications Act of 1934 (the Act), as amended by the Telecommunications Act of 1996 (the 1996 Act).⁶ In the 254 NPRM, the Commission sought comment on issues relating to the administration of the new universal service support mechanisms under section 254.⁷ The Commission noted that the entity chosen to serve as administrator must operate in an efficient, fair, and competitively neutral manner and the Commission set forth tentative criteria for selecting the administrator.⁸ The Commission further noted that the administrator would be required to process information, create and manage databases on a large scale, calculate the proper amount of each carrier's contribution, and apply eligibility criteria consistently, in order to ensure that only carriers eligible for support are compensated by the universal service support mechanisms.⁹

4. On November 8, 1996, the Federal-State Joint Board on Universal Service (Joint Board) released a Recommended Decision¹⁰ recommending, *inter alia*, that the Commission appoint a universal service advisory committee pursuant to the Federal Advisory Committee Act (FACA)¹¹ to recommend a neutral, third-party permanent administrator, selected through competitive bidding.¹² The Joint Board recommended four criteria for selection of a permanent administrator of the universal service support mechanisms. The chosen administrator, including its Board of Directors, must: (1) be neutral and impartial; (2) not advocate specific positions to the Commission in non-administration-related proceedings; (3) not be aligned or associated with any particular industry segment; and (4) not have a

⁵ Federal-State Joint Board on Universal Service, *Notice of Proposed Rulemaking and Order Establishing a Joint Board*, CC Docket No. 96-45, FCC 96-93 (rel. Mar. 8, 1996) (hereinafter, 254 NPRM).

⁶ 47 U.S.C. § 254. *See also* Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁷ 254 NPRM at paras. 127-130.

⁸ *Id.* at para. 128.

⁹ *Id.*

¹⁰ *Federal-State Joint Board on Universal Service, Recommended Decision*, CC Docket No. 96-45, FCC 96J-3 (rel. Nov. 8, 1996) (hereinafter, *Recommended Decision*). On November 18, 1996, the Commission's Common Carrier Bureau issued a public notice seeking comment on the Joint Board's recommendations. FCC Common Carrier Bureau Public Notice Seeking Comment on Universal Service Recommended Decision, DA 96-1891 (Nov. 18, 1996) (hereinafter, *Public Notice*).

¹¹ 5 U.S.C. App. § 4(a) and 3(2)(C).

¹² *Recommended Decision*, 12 FCC Rcd at 505.

direct financial interest in the support mechanisms established by the Commission. In addition, the Joint Board recommended that the permanent administrator also must have the ability to process large amounts of data and bill large numbers of carriers.¹³ Finally, the Joint Board recommended that "the Commission and the advisory board require the administrator to implement the support mechanisms no later than six months after its appointment."¹⁴

5. Noting that parties in the record questioned NECA's ability to appear as a neutral arbiter among contributing carriers because of the composition of NECA's current membership and Board of Directors, as well as its advocacy positions in several Commission proceedings, the Joint Board declined to recommend the appointment of NECA as the permanent administrator of the universal service support mechanisms.¹⁵ The Joint Board did recommend, however, that the Commission remove any regulatory barriers to NECA's rendering itself a neutral, third party and eliminating what the Joint Board described as NECA's current appearance of bias in favor of incumbent local exchange carriers (ILECs).¹⁶ The Joint Board further recommended that NECA be eligible to compete in the advisory board's process for selecting a permanent administrator if changes to NECA's membership and governance, in fact, render NECA a neutral, third party.¹⁷

6. Regarding the appointment of a temporary administrator, the Joint Board recommended that NECA be appointed the temporary administrator of the new universal service support mechanisms in order to bring support for telecommunications services to eligible schools, libraries, and rural health care providers as quickly as possible.¹⁸ The Joint Board also recommended that, prior to appointing NECA the temporary administrator, the Commission should "permit NECA to add significant, meaningful representation" of non-ILEC interests to the NECA Board of Directors.¹⁹

7. On May 8, 1997, the Commission released an order adopting, *inter alia*, the Joint Board's recommendations regarding the selection of both a permanent and temporary administrator. The Order requires the creation of a Federal Advisory Committee to

¹³ *Id.*

¹⁴ *Id.* at 506.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 506-507.

¹⁹ *Id.* at 506.

recommend a permanent universal service administrator in accordance with the Joint Board's four recommended criteria for the selection of a permanent administrator.²⁰ The Commission concluded that NECA, as currently structured, does not satisfy those criteria and, therefore, is not qualified to be the permanent administrator. The Commission concluded, however, that if changes to its Board of Directors or corporate structure enable it to satisfy the Joint Board's recommended criteria for the selection of a permanent administrator, NECA would be permitted to participate in the permanent administrator selection process. In the interest of speedy implementation of the universal service support mechanisms, the Commission also adopted the Joint Board's recommendation that NECA temporarily administer the universal service support mechanisms, subject to changes in NECA's governance that would render it more representative of non-ILEC interests. Finally, the Commission noted that the temporary administrator may not commit universal service support mechanism resources until it is appointed by the Commission.

B. The NECA Proceeding

8. On October 18, 1996, NECA requested that the Commission modify the size and composition of NECA's Board of Directors to reflect the interests of competitive local exchange carriers (CLECs), interexchange carriers (IXCs), wireless carriers, and non-carriers such as schools, libraries, rural health care providers, and states.²¹ NECA proposed adding to its current 15-member Board of Directors six directors from groups that would have a substantial stake in the new universal service support mechanisms. NECA explained that three directors would represent different segments of the telecommunications industry such as IXCs, wireless carriers, and CLECs, and three would represent non-carriers, such as schools, libraries, rural health care providers, and states. NECA further stated that the new Board members would participate in NECA's administration of the current universal service, Lifeline Assistance, and Long Term Support (LTS) programs (i.e., programs predating the Commission's Universal Service Order), as well as Board oversight of auditing, finance, and general corporate matters. Access tariffs and pool revenue distribution, however, would continue to be the responsibility of the access charge committees, consisting of current members of NECA's Board. Thus, 15 of the 21 directors would continue to be direct representatives of ILECs or outside directors chosen by ILECs. NECA argued that this proposal represented a reasonable step for an interim period until a permanent administrator is chosen because it would allow broader representation on universal service matters, while preserving the existing Board to direct NECA's other administrative functions.²²

²⁰ Universal Service Order at para. 861.

²¹ Letter from Bruce Baldwin, NECA, to Reed Hundt, Chairman, FCC, October 18, 1996 (hereinafter, NECA October 18, 1996 Letter).

²² NECA October 18, 1996 Letter.

9. On January 10, 1997, the Commission issued a Notice of Proposed Rulemaking and Notice of Inquiry addressing NECA's October 18th proposal and the Joint Board's recommendation that the Commission permit NECA to alter its governance structure.²³ The NECA NPRM sought comment on how the Commission should amend its rules to enable NECA to reform its Board of Directors in a manner that would enable it to become eligible to serve as the temporary administrator of the universal service support mechanisms. The NECA NPRM tentatively concluded that, in order for NECA to be eligible to serve as temporary administrator, NECA's Board must become more representative of the telecommunications industry as a whole. Accordingly, the NECA NPRM proposed to act upon the Joint Board's recommendations by amending section 69.602 of the Commission's rules²⁴ to permit NECA to modify the size and composition of its Board to make it more representative of the telecommunications industry. The NECA NPRM also sought comment on whether other sections of Part 69 should be modified in conjunction with the proposed changes to section 69.602. In the accompanying NECA NOI, the Commission sought comment on what additional rule changes the Commission should make to enable NECA to become a neutral, third party, and thus, eligible for consideration as the permanent universal service administrator.²⁵

10. In the NECA NPRM, the Commission also sought comment on whether NECA's October 18th proposal would satisfy the Joint Board's recommended criteria for a temporary administrator, and particularly whether the proposal would assure "significant, meaningful representation" of non-ILEC interests, given that ILEC interests would account for more than 71 percent of the Board's total composition.²⁶ We asked commenters to address whether any legal limitations would preclude NECA from creating an advisory committee or, alternatively, a new subset of directors and confining the latter's responsibilities solely to matters relating to the administration of the universal service support mechanisms.²⁷ We asked commenters taking the position that NECA's proposal does not meet the Joint Board's recommended criteria to set forth a specific alternative that would satisfy the Joint Board's

²³ Changes to the Board of Directors of the National Exchange Carrier Association, Inc., *Notice of Proposed Rulemaking and Notice of Inquiry*, CC Docket No. 97-21, FCC 97-2 (rel. Jan. 10, 1997), *errata*, mimeo 71784, CC Docket No. 97-21, (rel. Jan. 15, 1997) (NECA NPRM and NOI).

²⁴ 47 C.F.R. § 69.602. Section 69.602 generally defines the composition of NECA's Board of Directors.

²⁵ NECA NOI at paras. 15, 16. We will address any rule or structural changes pertaining to NECA's eligibility to compete for the position of permanent administrator in a Further Notice of Proposed Rulemaking that will reflect comments received in response to the Joint Board's Recommended Decision and the NECA NOI.

²⁶ *Id.*

²⁷ *Id.*

criteria.²⁸ Moreover, we asked commenting parties to identify other structural changes to NECA's Board or alternatives to NECA's proposal that would help ensure that NECA has added significant, meaningful representation for non-ILEC interests.²⁹

11. Also on January 10, 1997, NECA requested that the Commission consider a revised proposal in lieu of NECA's October 18th proposal, based on NECA's finding that it might not be possible to develop a satisfactory governance proposal within the context of a single administrative organization.³⁰ Under the January 10th proposal, NECA would not make changes to its current Board of Directors but would establish instead a separate subsidiary to administer the universal service support mechanisms.³¹ NECA proposed that, once the Commission appointed NECA the temporary administrator and authorized it to commit resources to fulfill its administrative duties, NECA would create a wholly-owned subsidiary, designated as the Universal Service Administrative Company (USAC).³² According to NECA, USAC would have a balanced, representative Board based on Commission recommendations and would include some representation from the current NECA Board.³³ Although USAC would have full control over the administration of the new universal service support mechanisms, certain NECA personnel would be dedicated to USAC functions on a full-time basis and other NECA employees would perform certain functions for USAC as needed.³⁴ Under NECA's proposal, USAC's labor costs would be recovered on a "chargeback" basis in accordance with the allocation procedures set forth in NECA's cost allocation manual.³⁵ Thus, as we understand the January 10th proposal, USAC's accounting structure would be a

²⁸ *Id.*

²⁹ *Id.*

³⁰ Letter from Bruce Baldwin, NECA, to Reed Hundt, Chairman, FCC, January 10, 1997 (hereinafter, NECA January 10, 1997 Letter).

³¹ NECA January 10, 1997 Letter.

³² *Id.*

³³ *Id.*

³⁴ Letter from Kathryn Falk to William Caton, Acting Secretary, FCC, February 12, 1997, recording an *ex parte* meeting between NECA personnel and Commission staff.

³⁵ *Id.* NECA uses the term "chargeback" to mean the apportionment of costs among the specific revenue categories defined in the cost allocation manual that NECA files annually. In order to prevent cross-subsidization, NECA must submit and obtain Commission approval of a cost accounting and procedures manual prior to engaging in any of its authorized intrastate activities. See NECA's Request for Authority to Provide Intrastate Services to Exchange Carrier Members, 2 FCC Rcd 6853 (Com. Car. Bur. 1987).

component of NECA's accounting system for all of NECA's operations.³⁶ NECA also noted that USAC would compete in any competitive bidding process to select a permanent administrator.³⁷

12. In comments filed on January 27, 1997, NECA stated that it does not take any specific positions on the size or composition of the USAC Board, except to recommend that the Commission clearly establish, by rule or order, a reasonable size for the Board and clear criteria and methods for selecting representatives from a cross-section of the telecommunications industry.³⁸ NECA contended that including on the USAC Board representatives from the NECA Board, who have experience with NECA's administrative operations and the complexities of managing universal service support mechanisms, would assure operational continuity.³⁹ NECA indicated that USAC Board members could be appointed by the Commission, nominated by interested parties, or selected by NECA based on the recommendations of the Commission and interested parties.⁴⁰

13. In a discussion paper filed on June 23, 1997, NECA proposed that the most effective method of administering the new universal service support mechanisms would be through a separate subsidiary as described in NECA's January 10th proposal.⁴¹ NECA also proposed the creation of board committees that would have specific program responsibilities, including a committee for the high cost and low-income programs, a committee for the schools and libraries program, and a committee for the rural health care program.⁴² As proposed by NECA, these committees would have final decision-making authority with respect to defined aspects of program administration. In its discussion paper, NECA indicated a preference for a single subsidiary approach as opposed to the formation of multiple subsidiary corporations for purposes of administering the universal service support mechanisms.⁴³ NECA supported a single subsidiary approach based on its belief that a single

³⁶ Letter from Kathryn Falk to William Caton, Acting Secretary, FCC, February 12, 1997, recording an *ex parte* meeting between NECA personnel and Commission staff.

³⁷ *Id.*

³⁸ NECA comments at 7.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Letter from Robert Haga to William Caton, Acting Secretary, FCC, June 23, 1997, recording an *ex parte* meeting between NECA personnel and Commissioner Quello and Commission staff.

⁴² *Id.*

⁴³ *Id.*

multiple companies. NECA indicated that a single NECA subsidiary could implement the support mechanisms more quickly than multiple companies; would provide "one-stop shopping" for support beneficiaries; would be more accountable to the Commission than multiple companies; would result in better coordination and fewer disputes resulting from inconsistent operational practices; and would provide for better continuity to a permanent administrator because any groups currently responsible for temporary administration of the support mechanisms that may become responsible for permanent administration of the support mechanisms would have better overall knowledge of the universal service programs under a single corporate structure.⁴⁴

14. Fifteen parties filed comments in response to the NECA NPRM and nine parties filed replies.⁴⁵ Because of the wide dissemination by NECA of its January 10th proposal to interested parties,⁴⁶ the majority of commenters to CC Docket 97-21 discussed both the October 18th and January 10th proposals.

III. COMMENTS

15. Appointment of NECA as Temporary Administrator. Commenters generally agree that NECA's present Board of Directors is not sufficiently representative of the broad spectrum of participants in the telecommunications industry for NECA to serve as the temporary administrator of the new universal service support mechanisms.⁴⁷ Several parties question whether an organization composed primarily of small ILECs can administer in a neutral manner a program in which all telecommunications carriers have direct, and potentially conflicting, interests.⁴⁸ At the same time, many commenters agree with the Joint

⁴⁴ *Id.*

⁴⁵ Bell Atlantic filed jointly with NYNEX, and their joint comments are referred to as "BA and NYNEX." The Rural Telephone Coalition also filed jointly with the United States Telephone Association, and their joint comments are referred to as "RTC and USTA." See Appendix A, Parties Filing Comments.

⁴⁶ NECA comments at 5, n.11. NECA states that copies of NECA's January 10, 1997 letter were served on all parties participating in CC Docket 96-45. All of the commenters responding to CC Docket 97-21 participated in CC Docket 96-45. In addition, a copy of NECA's letter was placed in the dockets of both proceedings.

⁴⁷ See, e.g., ALA comments at 4; Ameritech comments at 3; AT&T comments at 3; MCI comments at 2; NCTA comments at 5; PCIA comments at 2; Sprint comments at 2; WorldCom comments at 6.

⁴⁸ See LDDS 254 NPRM reply comments at 19-20; MCI 254 NPRM reply comments at 16-17; MFS 254 NPRM reply comments at 8; WinStar Communications, Inc. 254 NPRM reply comments at 6; Letter from Mary L. Brown, MCI, to Reed Hundt, Chairman, FCC, October 25, 1996.

Board that NECA could be appointed temporary administrator if it adds "significant, meaningful representation" of non-ILEC interests to its Board of Directors.⁴⁹ In comments filed in response to the Recommended Decision, a few parties opposed the Joint Board's recommendation that NECA be appointed temporary administrator notwithstanding the Joint Board's directive that NECA first add significant, meaningful representation of non-ILEC interests to its Board.⁵⁰ AT&T, for example, initially proposed alternatives to NECA,⁵¹ but stated in subsequent comments that the creation of a separate subsidiary by NECA, in accordance with NECA's January 10, 1997 proposal, could satisfy the Joint Board's criteria for a temporary administrator.⁵² WorldCom recommended the selection of an entity without any pecuniary or institutional interest in the universal service funds that it will collect and disburse, and without ties to any category of contributors or recipients.⁵³

16. NECA's January 10th Proposal. The majority of commenters support adoption of NECA's January 10th proposal and consider it an appropriate provisional measure for ensuring neutral administration and timely implementation of the new universal service support mechanisms.⁵⁴ Several commenters favor the approach set forth in the January 10th proposal because USAC, through its parent company, NECA, would have access to the experience, resources, and background necessary to implement the new support mechanisms as quickly as possible.⁵⁵ Likewise, NECA asserts that because of its experience in administering the current universal service programs, it will be able to "hit the ground running," thereby assuring that the program will be operational on schedule, despite the short implementation

⁴⁹ AT&T *Recommended Decision* comments at 26-27; Iowa UB *Recommended Decision* comments at 1-2; PacTel *Recommended Decision* comments at 60; RTC *Recommended Decision* comments at 52; TCA *Recommended Decision* comments at 9; Teleport *Recommended Decision* comments at 12.

⁵⁰ See, e.g., AT&T *Recommended Decision* comments at 26-27; Teleport *Recommended Decision* comments at 12.

⁵¹ AT&T *Recommended Decision* comments at 26-27.

⁵² AT&T reply comments at 5. Teleport opposed appointment of NECA as temporary administrator in comments filed in response to the Recommended Decision, but did not file comments responding to either the NECA Board NPRM or NECA's January 10, 1997 proposal.

⁵³ WorldCom comments at 4. See also MCI comments at 2.

⁵⁴ See, e.g., BA and NYNEX comments at 2; PacTel comments at 2; PCIA comments at 8; RTC and USTA comments at 5; Sprint comments at 2; U S West comments at 2; AT&T reply comments at 5; BellSouth reply comments at 2; SWBT reply comments at 2.

⁵⁵ See, e.g., U S West comments at 2-3; USTA comments at 5; BellSouth reply comments at 2; RTC reply comments; SWBT reply comments at 6.

periods.⁵⁶

17. NECA further contends, and commenters generally agree,⁵⁷ that NECA's January 10th proposal would assure significant, meaningful, industry-wide representation in universal service administration processes.⁵⁸ Through balanced representation of affected parties, NECA asserts that USAC could take advantage of the industry expertise of the USAC Board members without being aligned with any particular industry segment.⁵⁹ NECA maintains that a Board composed of members with experience and expertise in telecommunications services, as well as representation from contributing companies and beneficiaries of the universal service support mechanisms, will provide better guidance to the administrator than a Board composed of individuals who lack such experience and involvement.⁶⁰

18. Several parties comment favorably upon the fact that NECA's January 10th proposal would separate NECA's advocacy functions from its administration of the universal service support mechanisms, while permitting NECA's ILEC members to be represented by agents that they elect.⁶¹ Commenters contend that establishing a wholly-owned subsidiary also avoids potential legal issues raised by the October 18th proposal because, according to commenters, NECA may be precluded legally from limiting the scope of its non-ILEC directors' authority to administration of the new universal service support mechanisms and general oversight of auditing and finance matters, as the October 18th proposal envisioned.⁶² Problems associated with limiting the scope of certain NECA Board members' authority would be avoided under the January 10th proposal, according to these commenters, because the USAC Board's authority would be limited to overseeing the temporary administrator functions and the corporate governance of USAC.⁶³ SWBT asserts that USAC should

⁵⁶ NECA comments at 9.

⁵⁷ See, e.g., BA and NYNEX comments at 2; NCTA comments at 7; PacTel comments at 2; PCIA comments at 8; RTC and USTA comments at 5; Sprint comments at 2; U S West comments at 2; AT&T reply comments at 5; BellSouth reply comments at 2; GTE reply comments at 4; SWBT reply comments at 2.

⁵⁸ NECA comments at 7.

⁵⁹ NECA reply comments at 7.

⁶⁰ *Id.*

⁶¹ See, e.g., BA and NYNEX comments at 3; PacTel comments at 3; RTC and USTA comments at 5; BellSouth reply comments at 4.

⁶² See, e.g., PacTel comments at 3; RTC and USTA comments at 5; SWBT reply comments at 3.

⁶³ See, e.g., PacTel comments at 3; RTC and USTA comments at 5; SWBT reply comments at 3.

maintain independent control of its own day-to-day operations to avoid any potential conflict concerning fiduciary obligations of USAC Board members.⁶⁴ BellSouth agrees with Sprint that any interested party should be allowed to nominate a representative to the USAC Board and also contends that LEC representation on the USAC Board should not be limited to members of the current NECA Board.⁶⁵

19. MCI asserts that NECA should not be appointed the temporary administrator even under NECA's January 10th proposal.⁶⁶ MCI argues that the proposed structure of the separate subsidiary would prevent it from administering the support mechanisms in a neutral manner because, as a subsidiary of NECA, USAC would be under the control of the ILEC-dominated NECA Board and all USAC employees would continue to be NECA employees.⁶⁷ MCI further maintains that because NECA has no particular expertise in administering universal service programs for schools, libraries, and rural health care providers, there is no significant benefit in appointing NECA the temporary administrator.⁶⁸ MCI suggests that the functions necessary to administer universal service are not difficult and could be performed by many other firms.⁶⁹ MCI thus urges the Commission to reject both NECA proposals and immediately request neutral entities to submit proposals to be the temporary administrator.⁷⁰ Additionally, in its comments filed in response to the NECA Board NPRM, WorldCom maintained its position articulated in prior comments that NECA should not be appointed temporary administrator.⁷¹

20. NECA's October 18th Proposal. Several parties, some of which also support NECA's January 10th proposal, contend that NECA's October 18th proposal would offer meaningful and significant representation of non-ILEC interests.⁷² If the Commission adopts

⁶⁴ SWBT reply comments at 4.

⁶⁵ BellSouth reply comments at 3.

⁶⁶ MCI reply comments at 2.

⁶⁷ *Id.*

⁶⁸ *Id.* at 1.

⁶⁹ MCI comments at 2.

⁷⁰ *Id.* WorldCom, which previously had disapproved of NECA's appointment as temporary administrator, WorldCom comments at 3-6, did not comment on NECA's January 10, 1997 proposal.

⁷¹ WorldCom comments at 3-6.

⁷² See BA and NYNEX comments at 2; SWBT comments at 2. These three parties also express support for NECA's January 10, 1997 proposal. See also ALA comments at 4; Ameritech comments at 4.

the October 18th proposal, BA and NYNEX recommend that the Commission's Part 69 rules, which currently prescribe the structure of NECA's Board, be modified to require that the NECA Board represent the industry as a whole.⁷³ BA and NYNEX suggest that, rather than undertaking a rulemaking proceeding each time NECA wishes to modify its Board to reflect industry changes, NECA should be permitted to submit future changes to the Commission for approval under a public interest test.⁷⁴ If, after reforming its Board, NECA ceases to administer the universal service support mechanisms, SWBT suggests that NECA be permitted to reconstitute its Board to represent primarily ILEC interests.⁷⁵

21. Parties opposing the adoption of NECA's October 18th proposal maintain that it would not permit meaningful representation of non-ILEC interests and therefore would not satisfy the Joint Board's criteria for selecting a temporary administrator.⁷⁶ WorldCom argues that the competitive environment created by the 1996 Act in which ILECs will soon compete outside their traditional markets with IXCs and other entities that will contribute to and receive universal service support requires appointment of an administrator that is even-handed in both appearance and fact.⁷⁷ WorldCom contends that NECA's lack of neutrality and independence was highlighted when NECA, after nominating itself to be temporary administrator, actively participated in a policymaking proceeding in which NECA recommended the adoption of specific policy proposals, such as maintenance of the existing universal service programs and use of a revenue-based payment methodology.⁷⁸

22. Several commenters cite potential problems associated with NECA's October 18th proposal. For example, a few commenters suggest that NECA legally would be precluded from limiting the scope of the six non-ILEC directors' authority to administration of the new universal service support mechanisms and general Board oversight of auditing and

⁷³ BA and NYNEX comments at 3.

⁷⁴ *Id.*

⁷⁵ SWBT comments at 3.

⁷⁶ See AT&T comments at 7; MCI comments at 2; NCTA comments at 6; PCIA comments at 2; WorldCom comments at 5. In its January 10, 1997 filing, NECA acknowledged that its October 18, 1996 proposal did not address to the satisfaction of several participants in the universal service proceeding the concern that ILEC members would still constitute a majority of NECA's Board. NECA itself now advocates adoption of its January 10, 1997 proposal. NECA comments at 5.

⁷⁷ WorldCom comments at 1, 4.

⁷⁸ *Id.* at 5.

finance matters.⁷⁹ Similarly, RTC and USTA note that because corporate law does not recognize the concept of a limited duty director, all directors on NECA's Board ultimately would share responsibility to NECA's members for all Board functions, including responsibility for proper management of the tariff and access charge pools.⁸⁰ Ameritech and PCIA contend that because NECA's membership would continue to consist solely of ILECs, non-ILEC and non-carrier directors may be confronted with conflicts involving their fiduciary duties to NECA members.⁸¹ SWBT further notes that distinguishing between a tariff and pooling matter or a matter of general corporate, financial, or employee governance may be administratively complicated.⁸²

23. Other Proposals. Commenters offer general proposals for ensuring NECA's neutrality as well as specific proposals to modify NECA's October 18th and January 10th proposals.⁸³ Several commenters state that a balanced Board should include a cross-section of providers and beneficiaries of supported services and that ILEC directors should not constitute a majority.⁸⁴ ALA asserts that NECA should be required to restructure its Board so that one-third of its members represent consumers, libraries, and schools, and one-third represent non-ILEC industry members.⁸⁵ AT&T and Sprint contend that achieving balanced representation requires a 21-member board, although each party would define the board's composition differently.⁸⁶ If NECA is appointed the temporary administrator, MCI asks that NECA be barred from advocating positions on universal service issues in any regulatory proceeding.⁸⁷ MCI also argues that, because the Commission previously has been forced to conduct audits of NECA, the Commission should require NECA to initiate an independent audit of the

⁷⁹ See, e.g., Ameritech comments at 5; PCIA comments at 7; RTC and USTA comments at 5; SWBT comments at 3.

⁸⁰ RTC and USTA comments at 5.

⁸¹ Ameritech comments at 5; PCIA comments at 7.

⁸² SWBT comments at 3.

⁸³ See ALA comments at 4-6; Ameritech comments at 3, 5; AT&T comments at 6; MCI comments at 3; NCTA comments at 2, 6; PCIA comments at 7; WorldCom comments at 6.

⁸⁴ See, e.g., ALA comments at 5; ATA comments at 6; MCI comments at 3; NCTA comments at 6; WorldCom comments at 6.

⁸⁵ ALA *Recommended Decision* comments at 15. See also EDLINC *Recommended Decision* comments at 19-20.

⁸⁶ AT&T reply comments at 6-7; Sprint comments at 2.

⁸⁷ MCI comments at 3.

temporary administration of the universal service support mechanisms and pay for the audit with its own funds.⁸⁸

24. Arguing that the selection of a temporary administrator should be analyzed in the context of the criteria for selecting a permanent administrator, Ameritech questions whether the appointment of directors with industry or beneficiary involvement in the universal service support mechanisms is necessary to promote the Commission's goals of cost-efficient and neutral administration of universal service support.⁸⁹ Although it supports NECA's appointment as temporary administrator, Ameritech contends that the Commission should use the experience it gains during this interim period to evaluate whether the permanent universal service administrator need have on its board of directors any representation from the industry or beneficiaries of the fund.⁹⁰

IV. DISCUSSION

A. Overview

25. In this Order, we direct NECA to create an independently functioning, not-for-profit subsidiary, to be designated the Universal Service Administrative Company (USAC) that will administer temporarily the universal service support mechanisms for high cost areas and low-income consumers, as well as perform billing and collection functions associated with the universal service support mechanisms for schools and libraries and rural health care providers. We require that USAC's Board of Directors, which will be representative of both contributors to and beneficiaries of the universal service support mechanisms, consist of 17 members. Following review of the nominations submitted to the Commission by interested industry and non-industry groups, the Chairman of the Federal Communications Commission will select the members of the USAC Board. We further direct that the bylaws adopted by the USAC Board provide for the creation of a High Cost and Low Income Committee with the power and authority to bind the USAC Board on specified matters relating to the administration of the support mechanisms for high cost areas and low-income consumers.

26. We also reconsider, on our own motion,⁹¹ our determination in the Universal Service Order that a subcontractor should manage the application process for schools and

⁸⁸ *Id.*

⁸⁹ Ameritech comments at 2, 4.

⁹⁰ Ameritech comments at 4.

⁹¹ *See* 47 C.F.R. § 1.108.

libraries.⁹² We instead direct that, as soon as possible, NECA create two unaffiliated, not-for-profit corporations, to be designated, for the purposes of this Order, the Schools and Libraries Corporation and Rural Health Care Corporation (collectively referred to as the Corporations), to administer portions of the schools and libraries and rural health care programs. The establishment of the Corporations will bring to the administration of the schools and libraries and rural health care programs valuable expertise that is needed to ensure that the schools and libraries and rural health care programs are administered efficiently and in the best interests of their intended beneficiaries. We also conclude that the Corporations should continue to perform their designated functions even after the date on which the permanent administrator is appointed. In making this determination, we reconsider the scope of the functions that will be performed by the temporary administrator and by the permanent administrator, which will be selected after recommendation by a federal advisory committee. Finally, in this Order we establish requirements that will govern the administrator or temporary administrator's calculation, and the Commission's approval of the quarterly universal service contribution factors.

B. Appointment of NECA as Temporary Administrator

27. Appointment of NECA as Temporary Administrator. In the Universal Service Order, we adopted the Joint Board's recommendation to appoint NECA the temporary administrator of the universal service support mechanisms, subject to the condition that NECA make certain changes to its governance that would make it more representative of non-ILEC interests.⁹³ We adopted this recommendation in the interest of speedy implementation of the universal service support mechanisms.⁹⁴ Because appointment of the permanent administrator based on the recommendations to the Commission by a Federal Advisory Committee will take time (possibly up to two years before the permanent administrator is fully operational),⁹⁵ our

⁹² See Universal Service Order at para. 571. See also 47 C.F.R. § 54.504(b)(1); (b)(3).

⁹³ Universal Service Order at para. 866.

⁹⁴ *Id.*

⁹⁵ The Joint Board recommended the creation of a universal service advisory committee, created pursuant to FACA, 5 U.S.C., App. § 4(a) and 3(2)(C), whose function will be to recommend to the Commission, based on the results of a competitive bidding process, a permanent administrator of the universal service support mechanisms. The Commission adopted this recommendation in the Universal Service Order. See Universal Service Order at para. 861. Based on the Commission's experience with the North American Numbering Council, the creation and appointment of the advisory committee could take several months. See Administration of the North American Numbering Plan, *Report and Order*, 11 FCC Rcd 2588 (1995), at para. 54. Moreover, although the Joint Board recommended that a competitive bidding process be used to select the entity the committee would recommend to become a permanent administrator and that this process take no more than six months, Recommended Decision, 12 FCC Rcd at 505, Lockheed Martin has suggested that the process of creating a requirements document, soliciting bids, and evaluating the bids could take as long as a year. See

appointment of a temporary administrator is critical to ensuring timely implementation of the new universal service support mechanisms.

28. Our decision to appoint NECA the temporary administrator, subject to the guidelines set forth below, is not changed by MCI's suggestion that we solicit proposals from other "neutral" entities interested in serving as temporary administrator.⁹⁶ MCI reasons that NECA has no particular expertise in administering universal service programs for schools, libraries, and rural health care providers and therefore offers no significant benefit over other potential candidates.⁹⁷ Central to our determination to appoint NECA the temporary administrator, and overlooked by MCI's argument, however, is the Joint Board's recommendation that NECA continue to administer the existing high cost and low-income support mechanisms until the permanent administrator is prepared to implement the new high cost and low-income support mechanisms.⁹⁸ We conclude that NECA's substantial experience in administering the existing high cost and low-income support mechanisms provides a clear benefit in terms of assuring the operational continuity of these programs. Additionally, we conclude that MCI's concern that NECA lacks experience in administering programs for schools, libraries, and rural health care providers is addressed by the creation of the Schools and Libraries and Rural Health Care Corporations, which will manage significant portions of those programs.⁹⁹ We anticipate that these Corporations will be managed and staffed by individuals with substantial expertise in education, rural health care, and telecommunications issues.¹⁰⁰

29. We are unpersuaded by MCI's additional assertion that USAC will not be impartial because the USAC Board will be dominated by NECA's Board and because USAC employees will continue to be NECA employees.¹⁰¹ USAC's Board will be comprised of

Letter from Cheryl A. Tritt, Counsel for Lockheed Martin IMS, to William F. Caton, Acting Secretary, FCC, February 13, 1997. Finally, after its appointment, the administrator must develop systems to implement the support mechanisms. At a minimum, an administrator would need several months in which to prepare to begin its operations. Consequently, we estimate that it could take two to three years before a permanent administrator is fully operational.

⁹⁶ MCI comments at 2.

⁹⁷ MCI reply comments at 1.

⁹⁸ Recommended Decision, 12 FCC Rcd at 506.

⁹⁹ MCI reply comments at 2.

¹⁰⁰ The creation and functions of the Schools and Libraries and Rural Health Care Corporations are discussed below in sections IV.E-G.

¹⁰¹ MCI reply comments at 2.

diverse participants representing a wide variety of industry and beneficiary interests and, therefore can be expected to ensure that USAC will be operated in a competitively neutral and unbiased manner.¹⁰² Furthermore, it is within the authority of the USAC Board to limit the discretion of USAC's operations personnel as the USAC Board deems appropriate.¹⁰³

30. Adoption of the January 10th Proposal. We conclude that, as modified below, NECA's January 10th proposal to establish a subsidiary with a separate board of directors will satisfy the condition established in the Universal Service Order that NECA must comply with the Joint Board's directive to provide "significant, meaningful representation" for non-ILEC interests in the temporary administration of the new universal service support mechanisms.¹⁰⁴ Specifically, we agree with the majority of commenters that balanced participation on the USAC Board by a wide range of industry interests as well as various beneficiaries of the support mechanisms will assure significant, meaningful representation of non-ILEC interests.¹⁰⁵ We also agree with MCI that there should be a separation of NECA's advocacy activities from the administration of the universal service support mechanisms. Therefore, we direct NECA to establish USAC in such a way that USAC will be permitted to advocate positions before the Commission and its staff only on administrative matters relating to the universal service support mechanisms. We conclude that this restriction on USAC's advocacy activities will enhance the likelihood that the support mechanisms will be administered in a competitively neutral manner. We further conclude that, until January 1, 1998, NECA will continue to administer the current universal service, Lifeline Assistance, and LTS programs. USAC shall prepare for and administer the revised low-income and high cost programs.¹⁰⁶ We therefore direct NECA to establish USAC, in accordance with the January 10 proposal as modified by the specific requirements of this Order, to administer temporarily the universal service support mechanisms for high cost areas and low-income consumers, as well as to perform certain designated functions pertaining to the universal service support mechanisms for schools and libraries and rural health care providers.¹⁰⁷ We direct that USAC be

¹⁰² See paras. 32-36, *infra*.

¹⁰³ USAC, however, may not intervene in the operations of the Schools and Libraries and Rural Health Care Corporations, except as specifically provided herein. See para. 61 *infra*.

¹⁰⁴ See Universal Service Order at para. 866.

¹⁰⁵ We agree, however, with MCI and Ameritech, that prior to our appointment of a permanent administrator, we should re-evaluate the efficacy of including industry and support beneficiaries on the administrator's Board of Directors.

¹⁰⁶ We note that NECA will continue to administer the common line and traffic sensitive access tariff pools and the TRS fund.

¹⁰⁷ USAC's functions are discussed more fully below in section IV.D.

incorporated under the laws of Delaware, as an independent, not-for-profit subsidiary corporation of NECA. We further direct NECA to submit to the Commission for approval proposed articles of incorporation, bylaws, and any documents necessary to incorporate USAC, by August 1, 1997, in order to ensure prior to USAC's incorporation that all requirements of this Order have been satisfied. The Commission will approve or modify the proposed documents in a Public Notice.

31. The October 18th Proposal and Related Proposals. We conclude that expanding NECA's current Board, as NECA's October 18, 1996 proposal suggests, would not achieve the Joint Board's goal of ensuring significant and meaningful representation of non-ILEC interests. Despite the proposed addition of six non-ILEC directors, the 15 directors elected by NECA's ILEC membership would continue to constitute more than two-thirds of NECA's Board. We agree with NCTA and PCIA that because NECA's Board would continue to be controlled by ILEC interests, the minority non-ILEC directors would lack the voting strength to affect the Board's decisionmaking.¹⁰⁸ Moreover, because of the wide range of industry contributors and beneficiaries as well as the number of non-industry beneficiaries that will be affected by the new support mechanisms, we conclude that the addition of six non-ILEC directors to NECA's Board is insufficient to guarantee meaningful representation of this broad spectrum of potential participants. We also share the concern of commenters that suggest that legal limitations may preclude NECA from confining the authority of the newly added non-ILEC directors to matters relating solely to the administration of the universal service support mechanisms.¹⁰⁹ The alternative, permitting the newly added directors to participate in matters relating to NECA's management of the access tariff and pool revenue distribution processes in addition to NECA's administration of the support mechanisms, raises equally troubling questions concerning the scope and nature of the duty owed by non-ILEC and non-carrier directors to NECA's membership on matters unrelated to administering the universal service support mechanisms. Thus, we decline to adopt NECA's October 18th proposal.

32. For similar reasons, we decline to adopt proposed modifications to NECA's October 18th proposal that would expand NECA's current Board.¹¹⁰ For the reasons stated above, and as recognized by NECA, we conclude that it is unlikely that a single organization can achieve the goals of neutral administration and balanced industry-wide representation in

¹⁰⁸ NCTA comments at 6; PCIA comments at 2.

¹⁰⁹ See, e.g., Ameritech comments at 5; PCIA comments at 7; RTC and USTA comments at 5; SWBT comments at 3.

¹¹⁰ See, e.g., ALA comments at 4-6; Ameritech comments at 3, 5; AT&T comments at 6; MCI comments at 3; NCTA comments at 2, 6; PCIA comments at 7; WorldCom comments at 6. We note that several of the commenters supporting modifications to the October 18th proposal also support NECA's January 10th proposal.

matters relating to administering the universal service support mechanisms, while at the same time ensuring diligent representation of ILEC interests in access tariff and pooling matters.¹¹¹

C. USAC Board of Directors

33. Size and Composition of USAC Board. We direct NECA to establish the USAC Board with 17 directors that will represent a cross-section of industry and beneficiary interests.¹¹² The USAC Board shall be comprised of: three directors representing ILECs; two directors representing IXCs; one director representing commercial mobile radio service (CMRS) providers, which includes cellular, Personal Communications Services (PCS), paging, and Specialized Mobile Radio (SMR) companies; one director representing CLECs; one director representing cable operators; one director representing information service providers; three directors representing eligible schools;¹¹³ one director representing eligible libraries;¹¹⁴ one director representing eligible rural health care providers;¹¹⁵ one director representing low-income consumers; one director representing state telecommunications regulators; and one director representing state consumer advocates. The directors representing ILECs, IXCs, CMRS providers, CLECs, low-income consumers, state consumer advocates, and state telecommunications regulators also will serve on the High Cost and Low Income Committee of the USAC Board, as described in section IV.E below.

34. Our objective is to enable USAC's Board to achieve a balance of broad industry and beneficiary representation and administrative efficiency so that the Board can implement the new support mechanisms in a neutral and efficient manner. We conclude that the Board must have at least 17 members, as delineated above, to assure balanced representation of both industry and beneficiary interests. The Board should not be so large, however, that it is unable to give USAC the prompt and effective guidance USAC will need as it undertakes its new responsibilities.

35. We conclude that the allocation of three positions for ILEC interests is

¹¹¹ See NECA January 10, 1997 Letter.

¹¹² Because the TRS fund also draws contributions from a broad range of telecommunications carriers, we will consider at a later time if USAC should also administer the TRS fund.

¹¹³ See 47 C.F.R. § 54.501 for a description of schools that are eligible to receive discounts on telecommunications and other supported services.

¹¹⁴ See 47 C.F.R. § 54.501 for a description of libraries that are eligible to receive discounts on telecommunications and other supported services.

¹¹⁵ See 47 C.F.R. § 54.601 for a description of rural health care providers that are eligible to receive discounts on supported services.

necessary in order to maintain a balance of competing interests because of the large, non-ILEC majority among the participants. The group of three ILEC directors will consist of one director representing the BOCs and GTE, one director representing other ILECs having annual operating revenues in excess of \$40 million, and one director representing small ILECs having annual operating revenues of \$40 million or less to ensure fair representation of the diversity of ILEC interests. We agree with BellSouth that ILEC representation on the USAC Board should not be limited to members of the current NECA Board. Rather, we conclude that any individual, including a current member of NECA's Board of Directors, who is nominated and appointed in accordance with the procedures set forth below, should be entitled to serve on the USAC Board. Although we agree with AT&T that IXCs will make a substantial percentage of the universal service support contribution, we cannot permit IXCs or any other industry group to dominate the administration of the support mechanisms. Thus, we allocate two seats on the USAC Board to representatives of IXCs. Of the two IXC directors, one director will represent IXCs with more than \$3 billion in annual operating revenues, and one director will represent IXCs with annual operating revenues of \$3 billion or less. Because we expect that contributions to the support mechanisms by CMRS providers and CLECs will be smaller than contributions by IXCs or LECs, we allocate one seat each on the Board to representatives of CMRS providers and CLECs. Because discounts for information and advanced services will be given to schools and libraries, we allocate one seat each on the Board to a representative of cable operators and information service providers.

36. We conclude that allocating three positions to schools representatives and one position to a libraries representative sufficiently represents the interests of schools and libraries, which will receive services at discounts covered by approximately \$2.25 billion per year in universal service support.¹¹⁶ We further conclude that one director representing rural health care providers will be sufficient based on the size of the funding mechanism for rural health care providers, which is capped at \$400 million.¹¹⁷ We conclude that one director will represent low-income beneficiaries' concerns because of the explicit reference to low-income individuals in section 254(b)(3) of the Act¹¹⁸ and because of the newly expanded low-income

¹¹⁶ See Universal Service Order at para. 529.

¹¹⁷ See Universal Service Order at para. 704.

¹¹⁸ Section 254(b)(3) provides that "[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas." 47 U.S.C. § 254(b)(3).

programs.¹¹⁹ We include a representative of consumer interests because a major goal of universal service is that "[q]uality services should be available at just, reasonable, and affordable rates" to all Americans.¹²⁰ We also include a representative of state telecommunications regulators in light of the critical role that will be performed by the states in ensuring the effective implementation of the universal service support mechanisms.

37. We conclude that the establishment of a 17-member Board, as delineated above, will assure both fair representation of the diverse participants and competitively neutral administration of the universal service support mechanisms. To achieve a balanced board that is not so large that it is unable to provide USAC prompt and effective guidance, we limit Board membership to representatives of telecommunications carriers that, pursuant to section 254, are required to contribute to the support mechanisms, entities or persons that benefit from universal service support mechanisms, and state telecommunications regulators, who are vital to the effective implementation of the new universal service support mechanisms. In this way, parties directly affected by the support mechanisms and with an important role in their implementation will have a role in their administration.

38. Selection and Appointment of USAC Board Members. Members of the industry or non-industry groups that will be represented on the Board are directed to submit their nominees selected by consensus for USAC directors to the Chairman of the Federal Communications Commission¹²¹ within 14 calendar days of the publication of this Order in the Federal Register. In order for us to be able to confirm the identity and credentials of the board member nominees, each nomination should be accompanied by professional and biographical information, such as the nominee's resume or professional biography. Only members of the industry or non-industry groups that a Board member will represent may submit a nomination for that position (e.g., only CMRS providers may submit nominations for the CMRS position on the Board and only IXCs with more than \$3 billion in annual operating revenues may submit nominations for the IXC Board member who will represent IXCs of that size). In order to minimize controversy surrounding the selection and appointment of Board members and to expedite the appointment process, we strongly urge members of the industry

¹¹⁹ Pursuant to our new universal service rules, Lifeline has been revised to make it available in every state and to increase federal support to reduce charges on qualifying consumers' bills for telecommunications services. The revised Lifeline program also offers qualifying low-income consumers certain services and prohibits carriers from disconnecting Lifeline service for non-payment of toll charges and from charging service deposits for Lifeline consumers who receive toll blocking. 47 C.F.R. §§ 54.400-54.417.

¹²⁰ 47 U.S.C. § 254(b)(1). See also 47 U.S.C. § 254(i) ("[t]he Commission should ensure that universal service is available at rates that are just, reasonable, and affordable").

¹²¹ Nominations should be filed with both the Secretary and the Chairman of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

and other groups represented on the Board (e.g., IXCs, CMRS providers, schools) to nominate, by consensus, a candidate for each position on the Board who possesses substantial experience in, and knowledge of, telecommunications issues.

39. The Chairman of the Federal Communications Commission will review the nominations submitted to the Commission by industry and non-industry groups and select the members of the USAC Board of Directors.¹²² Because we conclude that each group to be represented on the USAC Board is best suited to nominate a qualified individual or individuals to represent that group's interests, we reject parties' recommendation that the Commission, in the first instance, select all of the USAC Board members.¹²³ If a group fails to reach consensus on a candidate to serve on the USAC Board, however, and instead submits the names of more than one nominee for a single Board member position, the Chairman of the Federal Communications Commission will, in the interest of establishing USAC as quickly as possible, select an individual or individuals who will serve on the USAC Board. Similarly, if an industry or beneficiary group fails to submit even a single nomination for a USAC Board member position, the Chairman of the Federal Communications Commission will select an individual from the appropriate industry or non-industry group to serve on the USAC Board for the duration of the board member's term. We conclude that delegating to the Chairman of the Federal Communications Commission the authority to select USAC Board members will aid in establishing the full Board as quickly as possible.

40. We direct that, within 14 calendar days of the Chairman's selection of USAC Board members, all USAC Board members be appointed to the USAC Board, and the USAC Board hold its first meeting. Members of the USAC Board will be appointed for two-year terms. Board members may be re-appointed for subsequent terms pursuant to the initial nomination and appointment process described above. In the event that a Board member vacates his or her seat prior to the completion of his or her term, USAC will notify the Chief, Common Carrier Bureau (Bureau) of such vacancy and a successor will be chosen pursuant to the initial nomination and appointment process described above.

D. Functions of USAC

41. In General. In connection with the temporary administration of the universal service support mechanisms for schools and libraries and rural health care providers, USAC¹²⁴

¹²² As discussed in section F below, individuals appointed to the USAC Board to represent eligible schools, libraries and rural health care providers also will serve as directors on either the Board of the Schools and Libraries Corporation or the Rural Health Care Corporation.

¹²³ See e.g., NECA comments at 7-8; GTE reply comments at 4.

¹²⁴ USAC's duties as the temporary administrator shall also apply to the permanent administrator.

will be directly responsible for billing contributors, collecting contributions to the universal service support mechanisms, and disbursing universal service support funds. USAC also will be responsible for administering the universal service support mechanisms for high cost areas and low-income consumers. In addition, as discussed below, the High Cost and Low Income Committee of the USAC Board will be responsible for implementing and overseeing designated aspects of the support mechanisms for high cost areas and low-income consumers.¹²⁵ USAC, including members of the High Cost and Low Income Committee, will be directly accountable to the Commission for the performance of their respective responsibilities. Thus, the Commission may take appropriate action including, for example, directing the removal of one or more directors or recommending the performance of an audit by an independent auditor, if the Commission finds that USAC or the High Cost and Low Income Committee is not performing its functions in accordance with Commission rules or if it is determined that USAC's administrative expenses are unreasonable.

42. Billing and Collection. The billing and collection process, for which USAC will be solely responsible, involves several steps: (1) collection of information regarding contributing entities' end-user telecommunications revenues; (2) calculation of quarterly universal service contribution factors; (3) calculation of individual entities' contributions; (4) billing of contributors; and (5) receipt of universal service contributions. USAC will perform these functions for all of the universal service support programs (i.e., high cost, low-income, schools and libraries, and rural health care providers).

43. For purposes of collecting information regarding contributing entities' end-user telecommunications revenues, USAC will distribute, receive, and process the Universal Service Worksheet (Worksheet), which directs each contributing carrier or entity to provide identification information and information regarding end-user telecommunications revenues on a semi-annual basis. A draft copy of the Worksheet appears in Appendix C hereto. Following receipt of the Worksheets, USAC will calculate the total of all of contributing entities' interstate, intrastate, and international end-user telecommunications revenues. This sum will represent the total universal service contribution base and will be used to calculate the quarterly contribution factors.

44. In the Universal Service Order, the Commission directed the universal service administrator to collect \$100 million per month for the first three months of 1998 and to adjust future contribution assessments quarterly based on its evaluation of school and library demand for funds, within the limits of the spending caps established in the Universal Service Order.¹²⁶ The Commission directed the administrator to report to the Commission on a quarterly basis, on both the total amount of payments made to entities providing services to

¹²⁵ See section E, *infra*.

¹²⁶ Universal Service Order at para. 532.

schools, libraries, and library consortia to finance universal service support discounts, and its determination regarding contribution assessments for the next quarter.¹²⁷ Similarly, the Commission concluded that funds for assistance to health care providers should be collected on an as-needed basis in order to meet anticipated actual expenditures over time.¹²⁸ Therefore, the Commission directed the administrator to collect \$100 million for the first three months of 1998 and to adjust future contribution assessments quarterly based on its evaluation of health care provider demand for funds, within the limits of the spending cap established in the Universal Service Order.¹²⁹ We instructed the administrator to report to the Commission, on a quarterly basis, both the total amount of payments made to entities providing services to health care providers to finance universal service support and its determination regarding contribution assessments for the next quarter.¹³⁰ These obligations will apply to USAC to the extent described below.

45. Consistent with our determinations in the Universal Service Order, we conclude that during each funding year, there will be four quarterly sets of universal service contribution factors.¹³¹ Universal service contribution factors shall be based on the ratio of quarterly projected costs of the support mechanisms, including administrative expenses, to the applicable revenue base. USAC will adjust the contribution factors for each quarter based on quarterly demand for services and administrative costs, subject to any funding caps established in the Universal Service Order.

46. Based on historic demand,¹³² the High Cost and Low Income Committee will determine quarterly projected demand for support for the high cost and low-income programs and submit those projections, as well as the underlying data used to calculate the projections, to the Commission for review at least 60 days before the start of each quarter. Once these

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Because contributors will have differing ratios of interstate to intrastate revenues, two contribution factors are needed. One factor will be applied to subject interstate end-user telecommunications revenues, and one factor to subject interstate and intrastate end-user telecommunications revenues.

¹³² USAC shall base demand for high cost support on historic data or on demand from a previous quarter until a forward-looking economic cost model is implemented. We will provide USAC or the permanent administrator further instructions when we adopt a forward-looking economic cost model.

figures are approved by the Commission,¹³³ USAC shall use these projections to calculate the interstate and international end-user telecommunications revenues contribution factor. Similarly, the Schools and Libraries and Rural Health Care Corporations shall submit all quarterly projections of demand for their respective programs, including the underlying data used to calculate the projections, to the Commission for review at least 60 days before the start of each quarter.¹³⁴ Once these figures are approved by the Commission, USAC shall use these projections to calculate the quarterly interstate, intrastate, and international end-user telecommunications revenues contribution factor.

47. At least 60 days before the start of each quarter, USAC also will project its administrative costs and submit those projected costs to the Commission for review for reasonableness. USAC shall not allocate all of its administrative costs to the high cost and low-income programs' quarterly cost projections. USAC's costs that can be directly attributed to the schools and libraries or rural health care programs should be identified so that they can be included in the projected administrative expenses of the relevant programs. USAC's joint and common costs associated with billing and collection of contributions or disbursement of funds also should be identified. One-fourth of USAC's joint and common costs should be included in the projected administrative expenses of the high cost, low-income, schools and libraries, and rural health care programs, respectively. Once these figures are approved by the Commission,¹³⁵ USAC shall use the projections of its costs to administer the high cost and low-income programs along with the approved High Cost and Low Income Committee's projections of demand to calculate the interstate and international end-user telecommunications revenues contribution factor. Similarly, at least 60 days before the start of each quarter, the Schools and Libraries and Rural Health Care Corporations will project their quarterly administrative costs for the respective Corporations and submit those projected costs to the Commission for review.¹³⁶ Once these figures are approved by the Commission, USAC shall use these projections, USAC's projected administrative costs allocated to the schools and libraries and to rural health care programs, and the Corporations' approved projections of demand to calculate the quarterly interstate, intrastate, and international end-user

¹³³ Projected quarterly demand will be deemed approved by the Commission if the Commission does not act within 14 days following publication of the projections along with the projections of administrative expenses in a Public Notice.

¹³⁴ As discussed below in section IV.G, the Schools and Libraries and Rural Health Care Corporations will submit to the Commission their demand projections.

¹³⁵ Projected quarterly administrative expenses will be deemed approved by the Commission if the Commission does not act within 14 days following publication of the projections along with the projections of demand in a Public Notice.

¹³⁶ As discussed below in section IV.G, the Schools and Libraries and Rural Health Care Corporations will submit to the Commission their projected administrative expenses.

telecommunications revenues contribution factor for the schools and libraries and rural health care support programs. In addition to the actual projections of administrative expenses, USAC and the Corporations must submit to the Commission and the Common Carrier Bureau the underlying data used to calculate their projections. By receiving USAC's and the Corporations' projections of administrative expenses and the data supporting those projections, the Commission will be able to determine whether USAC's and the Corporations' administrative expenses are reasonable and take appropriate action if it is determined that their projected expenses are unreasonable. In addition, USAC will submit the latest total revenue base information that it has collected from the Worksheets to the Commission at least 60 days before the start of each quarter.

48. USAC must obtain Commission approval of all projections of demand and administrative expenses before using them to calculate the contribution factors and before applying the factors to calculate individual contributions. The quarterly projections of demand and administrative expenses, total revenue base information submitted by USAC, the Committee, and the Corporations, and the proposed quarterly contribution factors will be announced by the Commission in a Public Notice and will be made available on the Commission's website. If the Commission takes no action within 14 days of the date of the Public Notice announcing the projections of demand and administrative expenses and the contribution factors, then the projections and contribution factors will be deemed approved by the Commission. The Commission reserves the right to set projections of demand or administrative expenses at amounts that the Commission determines will serve the public interest at any time within the 14-day period following release of the Commission's Public Notice.

49. After the Commission approves the projections of demand by the Schools and Libraries and Rural Health Care Corporations and the High Cost and Low Income Committee and the projected administrative expenses of the Schools and Libraries and Rural Health Care Corporations and USAC, USAC will calculate and apply the quarterly contribution factors to determine each entity's contribution and bill and collect contributions from contributors. To calculate an individual entity's quarterly contribution, USAC will multiply the entity's universal service contribution base (i.e., its interstate, intrastate, and international end-user telecommunications revenues or its interstate and international end-user telecommunications revenues) by the relevant universal service contribution factor. USAC then will bill each contributor for the amount of its contribution. Contributors must remit all contributions to USAC by the contribution due date. USAC will file with the Commission and the Bureau periodic reports regarding the status of contributors' payments and failure to make payments.

50. If, in any quarter, contributions exceed universal service support payments and administrative costs, contributions for the following quarter will be reduced by an amount that takes into account the unused funds from the previous quarter. Similar to our rules governing NECA's administration of the TRS fund, if contributions in one quarter are inadequate to

meet demand, USAC may request authority from the Commission to borrow funds commercially subject to any spending or collection caps, with such debt secured by future universal service contributions.¹³⁷ In such event, contributions for subsequent quarters will be increased by an amount to cover the added costs associated with borrowing funds.

51. Disbursements. In disbursing universal service support in connection with the support mechanisms for high cost areas and low-income consumers, USAC will review and process data submitted by service providers and disburse payments to eligible service providers, as directed by the High Cost and Low Income Committee. In disbursing universal service support in connection with the support mechanisms for schools, libraries, and rural health care providers, USAC will be directed by the Schools and Libraries and Rural Health Care Corporations to disburse payments to service providers. Eligible schools, libraries, and rural health care providers will be instructed to provide to USAC and the Schools and Libraries Corporation or Rural Health Care Corporation copies of a form designating the services provided to the school, library or health care provider and the support amount due to the service provider. We direct the Schools and Libraries and Rural Health Care Corporations to authorize USAC to disburse the appropriate payment amounts as quickly as possible, but no later than 20 days following receipt of the forms. We direct USAC to distribute universal service support to eligible service providers as quickly as possible, but no later than 20 days following receipt by USAC of the Corporations' authorization to disburse funds under the schools, libraries and rural health care programs.

E. Creation and Functions of High Cost and Low Income Committee

52. Consistent with Delaware law, we direct the USAC Board to adopt bylaws providing for the creation of a special committee of its Board to be designated the High Cost and Low Income Committee, which will have the power and authority to bind the USAC Board on issues relating specifically to the universal service support mechanisms for high cost areas and low-income consumers. The Universal Service Order significantly reformed these programs to make them consistent with the mandates of the Act, including making universal service support available to all eligible telecommunications carriers rather than solely to ILECs. In light of the substantial modifications that have been made to the high cost and low-income programs, we conclude that the creation and operation of the Committee are necessary to ensure the successful implementation of and transition to the new high cost and low-income programs. Because, in contrast to the new schools, libraries and rural health care programs, some form of high cost and low-income support mechanisms has been in place for several years, we do not find that creation of an unaffiliated corporation for the high cost and low-income programs is necessary at this time.

¹³⁷ See 47 C.F.R. § 64.604(c)(ii)(B).

53. Our decision to employ a committee rather than a separate corporation for the high cost and low-income programs is not intended to suggest that these programs are any more -- or any less -- important than those for schools and libraries and for rural health care. At a later date, we may well conclude that the same structure is appropriate for each of the programs contemplated by section 254. But it is in the area of section 254(h) that we are establishing a completely new universal service program, as to which NECA has no prior expertise and for which the necessary processes must be operational by January 1, 1998. The changes to the high cost and low-income programs pose fewer new administrative challenges than the new schools and libraries and rural health care programs. Furthermore, the most far-reaching, significant changes to the high cost support program will not be implemented until January 1, 1999. Thus, the differing treatment given here to schools, libraries, and health care, on the one hand, and to low-income and high-cost support, on the other, is possibly temporary and in any event fully justified by our desire that the former programs be launched with speed, independence, efficiency, and accountability.

54. The Committee will consist of 10 USAC Board members, including seven service provider representatives (i.e., the three representatives of ILECs, two representatives of IXC's, one representative of CMRS providers, and one representative of CLECs) and the low-income, state consumer advocate, and state telecommunications regulator representatives described above. We conclude that the creation of a committee comprised of Board members with expertise on the issues associated with the support mechanisms for high cost areas and low-income consumers will facilitate efficient and responsive decision making on these issues. We conclude that the cable operator, information service provider, schools, libraries, and rural health care representatives should not serve on the Committee because we anticipate that these representatives will have relatively less interest and expertise in matters affecting the administration of the high cost and low-income support mechanisms. These board members do not represent entities that are eligible to receive universal service support from the high cost and low-income universal service support mechanisms and that directly benefit from these programs.¹³⁸ In addition, including on the Committee only those USAC Board members with expertise in issues relating to the universal service support mechanisms for high cost areas and low-income consumers will relieve the remaining USAC Board members of the responsibility to make decisions concerning issues that may be outside the scope of their knowledge and that do not directly affect their constituent interests. This also will allow the members to focus on the issues that more directly impact their constituencies.

55. The High Cost and Low Income Committee will have the power and authority to make binding decisions on issues related to the administration of the high cost and low-income support mechanisms, as specifically delineated in USAC's bylaws, except on issues related to USAC's billing, collection, and disbursement functions discussed above. For

¹³⁸ We note that cable operators, in their capacity as telecommunications providers, will be represented on the High Cost and Low Income Committee by the CLEC representative.

example, the Committee will have binding authority to make decisions related to how USAC projects demand for the high cost and low-income programs, any forms needed for the programs, and processing of such forms. The Committee also will have binding authority to set the amounts of high cost and low-income support that USAC will disburse to eligible telecommunications carriers.

56. Based on the authority granted to the administrator under Commission universal service rules to audit contributors and carriers that report data to the administrator,¹³⁹ we conclude that the Committee should have the authority to recommend the performance of such audits of telecommunications carriers receiving universal service support, when its members find it necessary to do so. We conclude that the Committee, the majority of which will represent service providers, likely will recognize when there is the need for an audit of such entities and how such an audit can be structured in order to obtain the relevant information in an efficient manner. We note that the Commission independently may direct the performance of audits of telecommunications carriers receiving high cost or low-income universal service support. In the event that a majority of the members of the Committee is unable to reach a decision, the Chairman of the Committee is authorized to cast an additional vote to resolve the deadlock.

F. Creation of Schools and Libraries and Rural Health Care Corporations

57. As noted above, we reconsider, on our own motion, our decision to require the administrator to select a subcontractor to manage the application process for eligible schools and libraries and instead direct NECA to incorporate two not-for-profit, unaffiliated corporations that will be responsible for administering the schools and libraries and rural health care programs, except with regard to those matters directly related to billing, collection, and disbursement of funds.¹⁴⁰ Specifically, we conclude that the structure and carefully delineated responsibilities of the Corporations, as set forth herein, will provide for greater accountability and more efficient administration of the schools and libraries and rural health care programs than would the approach adopted earlier because a subcontractor, unlike the Corporations, would not be directly accountable to the Commission. Accordingly, as soon as possible following release of this Order, NECA shall incorporate the Corporations as unaffiliated, not-for-profit corporations under the laws of Delaware. The Corporations shall be designated the Schools and Libraries Corporation and Rural Health Care Corporation. NECA initially shall establish the Schools and Libraries and Rural Health Care Corporations and then take such steps as are necessary and appropriate under Delaware and federal law to make the Corporations independent of, and unaffiliated with, NECA and USAC. We direct NECA to submit to the Commission for approval the proposed articles of incorporation,

¹³⁹ See 47 C.F.R. § 54.707.

¹⁴⁰ For a discussion of the Corporations' functions, see section IV.H below.

bylaws, and any documents necessary to incorporate the Corporations, by August 1, 1997, in order to permit us to determine prior to NECA's establishing the Corporations whether the requirements of this Order have been satisfied.

58. We conclude that the creation and operation of the Corporations are critical to the successful implementation of the schools and libraries and rural health care support mechanisms.¹⁴¹ The schools and libraries and rural health care support mechanisms are, as MCI points out,¹⁴² new programs involving new categories, and potentially large numbers, of participants and beneficiaries. Because of the complexity and unique issues related to the schools and libraries and rural health care provider support mechanisms, in addition to the significance of these programs under the 1996 Act, we conclude that decisions concerning their implementation may require special expertise. Not only is such expertise outside the competence of NECA's Board and existing staff, as MCI asserts,¹⁴³ but we conclude that it is also outside the competence of the USAC Board. We conclude that establishing separate corporations to administer the schools and libraries and rural health care programs, as set forth in section IV.G below, will help ensure that these programs are administered by individuals with expertise and, of equal importance, with a direct stake in the success of the programs.

59. To ensure continuity in, and efficient administration of, the schools and libraries and rural health care programs, we conclude that the Corporations should continue to perform their designated functions even after the date on which the permanent administrator is appointed. In making this determination, we reconsider the scope of the functions that will be performed by the temporary administrator and by the permanent administrator, which will be selected pursuant to the FACA. Specifically, we provide that both USAC and, subsequently, the permanent administrator will share responsibility with the Corporations for administering the schools and libraries and rural health care programs as detailed in sections IV.D and IV.H herein. As reflected in those sections, we assign to the Corporations responsibility for administering significant portions of the schools and libraries and rural health care programs, respectively, and assign to both USAC and the permanent administrator responsibility for collection and disbursement functions associated with the schools and libraries and rural health care programs. We conclude that it is critical to the success of the schools and libraries and

¹⁴¹ Section 254(c)(3) states that "[i]n addition to the services included in the definition of universal service under paragraph [c](1), the Commission may designate additional services for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection [254](h)." 47 U.S.C. § 254(c)(3). Section 254(h)(2) states that "[t]he Commission shall establish competitively neutral rules to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers, and libraries." 47 U.S.C. § 254(h)(2).

¹⁴² MCI reply comments at 2.

¹⁴³ MCI reply comments at 2.

rural health care programs and, specifically, to the ability of the Corporations to attract and develop qualified personnel, that significant portions of the schools and libraries and rural health care programs be implemented by entities that will have an ongoing role in the administration of those programs, notwithstanding the identity of the permanent administrator. Moreover, we conclude that it would be disruptive and wasteful of the resources invested in the creation of the Corporations and in their start-up operations if we were to dissolve them upon the appointment of a permanent administrator.

60. To the extent that we are modifying the scope of the functions to be performed by the temporary and permanent administrators in connection with the administration of the schools and libraries and rural health care programs in a manner that differs from the scope defined in our Universal Service Order, we also modify our charge to the federal advisory committee that will be recommending to the Commission a permanent administrator. Its task will now be to identify and recommend as permanent administrator the candidate that is best suited to perform the functions that we have set out in section IV.D above. As a condition of the appointment of a permanent administrator, we also require that the entity selected as the permanent administrator take whatever steps as are necessary or ordered by the Commission to maintain the relationship and division of responsibilities with the Corporations as described in section IV of this Order.

G. Boards of Directors of Schools and Libraries and Rural Health Care Corporations

61. The Board of Directors of the Schools and Libraries Corporation will consist of seven members, including three schools representatives, one libraries representative, one service provider representative, one independent director, and the CEO of the corporation. The three directors representing schools and one director representing libraries will be the same directors as those representing schools and libraries on the USAC Board. The Chairman of the Federal Communications Commission will select, simultaneously with selection of the USAC Board members, an individual not affiliated with schools, libraries, or service providers to serve as an independent director of the Schools and Libraries Corporation Board.¹⁴⁴ The USAC Board will select the service provider representative who will serve on the Schools and Libraries Corporation Board from among the service provider representatives on the USAC Board within seven calendar days of the USAC Board's first meeting. Once the service provider representative has been appointed to the Schools and Libraries Corporation Board, those six Board members (including the independent director and the schools and libraries representatives) will submit a CEO candidate to the Chairman for approval. The chosen CEO also will serve on the Board of the Schools and Libraries Corporation. We note that, unlike the other directors on the Schools and Libraries Corporation's Board, the independent director

¹⁴⁴ An individual not affiliated with schools, libraries, or service providers is one who, for example, do not have a direct financial interest in schools, libraries, or service providers and/or who is not employed by one of these entities.

and CEO will not serve on the USAC Board.

62. The Board of Directors of the Rural Health Care Corporation will consist of five members, including two rural health care representatives, one service provider representative, one independent director, and a CEO. One of the rural health care provider representatives also will be the director representing rural health care providers on the USAC Board. In a forthcoming public notice soliciting nominations for the USAC Board of Directors, interested parties also will be instructed to nominate a second rural health care provider representative to serve only on the Board of Directors of the Rural Health Care Corporation. The Chairman of the Federal Communications Commission will select the second representative of rural health care providers who will serve only on the Board of the Rural Health Care Corporation simultaneously with the selection of the members of the USAC Board. The Chairman of the Federal Communications Commission also will select, simultaneously with the selection of the USAC Board members, an individual not affiliated with rural health care providers or service providers to serve as an independent director of the Rural Health Care Corporation Board.¹⁴⁵ The USAC Board will select a service provider representative to serve on the Rural Health Care Corporation's Board from among the service provider representatives on the USAC Board within seven calendar days of the USAC Board's first meeting. Once the service provider representative has been appointed to the Rural Health Care Corporation Board, the four Board members (including the independent director and the rural health care provider representatives) will submit a CEO candidate to the Chairman for approval. The chosen CEO also will serve on the Board of the Rural Health Care Corporation. We note that the independent director, CEO, and one rural health care provider representative will not serve on the USAC Board.

63. We conclude that, with the exceptions discussed above, the Corporations' directors representing schools, libraries, health care providers, and telecommunications service providers should be the same directors as those on the USAC Board representing schools, libraries, rural health care providers, and telecommunications service providers. We reach this conclusion based on our expectation that the Corporations' Board members will be required to work closely with USAC operations staff because of the shared responsibility of USAC and the Corporations for administering the schools and libraries and rural health care programs. We also conclude that including a service provider representative on each of the Corporation's Boards will help to ensure that the viewpoint of those providing eligible services to schools, libraries, and rural health care providers and those contributing to the universal service support mechanisms will be represented. Therefore, the four USAC Board members representing schools and libraries and the one USAC Board member representing rural health care providers will be appointed to the Boards of Directors of the Schools and Libraries and

¹⁴⁵ An individual not affiliated with rural health care providers or service providers is one who, for example, does not have a direct financial interest in rural health care providers or service providers and/or who is not employed by one of these entities.

Rural Health Care Corporation, respectively, contemporaneously with their appointment to the USAC Board.

64. Like the members of the USAC Board, all of the Corporations' Board members shall be appointed for two-year terms. Board members may be reappointed for subsequent terms pursuant to the appointment process used initially to select the Corporations' Board members, as discussed above. In the event that a Corporation's Board member vacates his or her seat prior to the completion of his or her term, the Corporations will notify the Bureau of such vacancy and a successor will be chosen pursuant to the process used initially to select the Corporation's Board members. Removal of members of the Corporations' Board must be consistent with Delaware law and may only occur with the approval of the Chairman of the Federal Communications Commission.

H. Functions of Schools and Libraries and Rural Health Care Corporations

65. The Schools and Libraries and Rural Health Care Corporations will perform all functions relating to administering the support mechanisms for eligible schools and libraries and rural health care providers, except those directly related to billing and collecting contributions and disbursing support, as discussed above. In administering the support mechanisms for eligible schools and libraries and rural health care providers, the Corporations must comply with all Commission rules. The Corporations' functions will include, but will not be limited to: (1) administering the application process for eligible schools, libraries, and rural health care providers, including the dissemination, processing, and review of applications for service from schools, libraries, and rural health care providers; (2) creating and maintaining a website on which applications for services will be posted on behalf of schools, libraries, and rural health care providers seeking to attract the competitive bids of service providers; (3) performing outreach and public education functions, by, for example, communicating with interested parties about the availability of, and requirements for receiving, universal service support for schools, libraries, and rural health care providers; (4) reviewing bills for services that are submitted by schools, libraries, and rural health care providers on which service providers designate the amount of universal service support they should receive for services rendered and on which schools, libraries, and rural health care providers confirm that they have received such services; (5) submitting all quarterly projections of demand and their own administrative expenses to the Commission; (6) informing USAC, based on the information contained in the bills for services provided, of the amount of universal service support to be disbursed to service providers; (7) authorizing the performance of audits of schools and libraries and rural health care provider beneficiaries of universal service support; (8) and any other function relating to the administration of the

schools and libraries and rural health care programs that is not specifically assigned to USAC.¹⁴⁶ With regard to authorizing the performance of audits of schools and libraries, we clarify our decision in the Universal Service Order that the Commission, in consultation with the Department of Education, should engage and direct an independent auditor to conduct audits of schools and libraries.¹⁴⁷ Because it will assume many of the functions related to the administration of schools and libraries program and will work closely with eligible schools and libraries, we conclude that the Schools and Libraries Corporation, rather than the Commission in consultation with Department of Education, is better suited to determine when the performance of audits of schools and libraries should occur.¹⁴⁸ For this reason, we conclude that the Schools and Libraries Corporation, rather than the Department of Education, should be authorized, in consultation with us, to engage and direct the individual audit of schools and libraries.

66. Furthermore, we clarify our provision in the Universal Service Order that the administrator should project school, library, and rural health care provider demand for funds for the purpose of calculating the universal service contribution factors, and monitor such demand for the purpose of determining when, in the case of the schools and libraries program, the \$2 billion trigger has been reached,¹⁴⁹ and when, in the case of the rural health care program, the \$400 million annual cap has been reached.¹⁵⁰ We specify that the Corporations, rather than USAC or the permanent administrator, will monitor demand for the purpose of determining when the \$2 billion trigger has been reached in the case of the schools and libraries program and when the \$400 million cap has been reached in the case of the rural health care providers program. Once the \$2 billion trigger has been reached, the Schools and Libraries Corporation will be responsible for implementing the rules of priority under which it will determine, consistent with our Universal Service rules, the procedures by which the

¹⁴⁶ Schools, libraries, and rural health care providers, as well as service providers, are subject to compliance review and must maintain records necessary to assist in audits, as provided in our Universal Service rules. These entities are required to produce their records at the request of the appointed auditor whether the auditor suspects fraud or other illegal conduct or is merely conducting a routine, random audit. See 47 C.F.R. §§ 54.516 & 54.619. See also Universal Service Order at paras. 581 and 728.

¹⁴⁷ Universal Service Order at para. 581.

¹⁴⁸ We note, however, that the Commission retains independent authority to authorize the performance of audits of schools and libraries.

¹⁴⁹ As established in the Universal Service rules, once there is only \$250 million available to be committed in a given funding year to schools and libraries, only those schools and libraries that are most economically disadvantaged and have not yet received discounts from the universal service mechanism in the previous year would be granted guaranteed funds, until the cap is reached. See 47 C.F.R. § 54.507(f).

¹⁵⁰ The Universal Service rules provide for a \$400 million annual cap on universal service support for rural health care providers. See 47 C.F.R. § 54.623(a).

remaining funds will be disbursed under the schools and libraries program.¹⁵¹ We conclude that the Corporations are best suited to project and monitor demand for funds for purposes of calculating the quarterly contribution factors because the Corporations will be responsible for reviewing the bills for services on which service providers will designate the amount of universal service funds to which they are entitled and on which schools, libraries, and rural health care providers will confirm the receipt of such services. In addition, we clarify that the Schools and Libraries and Rural Health Care Corporations' administrative expenses shall be applied to their respective programs' annual funding caps.

67. We also conclude that the Schools and Libraries Corporation may review and certify schools' and libraries' technology plans¹⁵² when a state agency has indicated that it will be unable to review such plans within a reasonable time. We anticipate that consistent with the Universal Service Order, the Department of Education and the Institute for Museum and Library Services will recommend to the Commission alternative review measures.¹⁵³ Upon receipt of such recommendations, the Commission will determine whether to adopt alternative review measures. Furthermore, we clarify our statement in the Universal Service Order that the administrator should classify schools and libraries as urban or rural and use the discount matrix adopted in the Universal Service Order to set the discount rate that will be applied to eligible interstate services purchased by schools and libraries.¹⁵⁴ We conclude that the Schools and Libraries Corporation is best suited to classify schools and libraries as urban or rural and to use the discount matrix to set the discount rate because, as discussed above, the Schools and Libraries Corporation will be responsible for reviewing and processing applications for services in which schools and libraries provide the information that will be used in setting the discount rate.

68. In a discussion paper filed on June 23, 1997, NECA indicated a preference for the creation of a single subsidiary corporation as opposed to the formation of multiple corporations for purposes of administering the universal service support mechanisms.¹⁵⁵ We are unpersuaded by NECA's arguments that a single corporation would provide a more

¹⁵¹ As provided in 47 C.F.R. § 54.507(f), certain rules of priority will apply to the disbursement of funds when expenditures in any funding year reach the level where only \$250 million remains before the cap will be reached.

¹⁵² The Universal Service rules require schools and libraries to submit technology plans as part of their application for service. See 47 C.F.R. § 54.504(b)(2)(vii).

¹⁵³ See Universal Service Order at para. 574.

¹⁵⁴ See 47 C.F.R. § 54.505.

¹⁵⁵ Letter from Robert Haga to William Caton, Acting Secretary, FCC, June 23, 1997, recording an *ex parte* meeting between NECA personnel and Commissioner Quello and Commission staff.

efficient or effective method of administering the universal service support mechanisms than the administrative structure prescribed by this Order. First, we do not concur in the view that structuring all administrative functions within a single corporate structure would result in greater efficiency, avoid duplication of functions, or produce greater cost savings than would the structure described above. Rather, we anticipate that unique administrative functions will be performed by appropriate personnel whether those personnel serve as officers or employees under particular committees of a single corporation or perform those same functions within separate corporations. Because the schools and libraries program and the rural health care program will serve discrete categories of beneficiaries, we anticipate that the administrative functions associated with those programs will be performed by individuals with expertise and knowledge in the areas of education, library programs, or health care. Therefore, we reject the assertion that the creation of separate corporations will result in duplication of functions as NECA suggests. Moreover, in monitoring the quarterly projected administrative expenses of both USAC and the Corporations, as discussed in section IV.D, and in directing NECA, USAC, and the Corporations to share personnel and other resources whenever doing so would minimize expenses, as discussed in section IV.I, we conclude that the risk of unnecessary duplication of functions, systems, and resources is not significant.

69. We find no evidence to suggest, as asserted by NECA, that the new universal service support programs could be implemented more quickly under a single corporate structure. As a threshold matter, we do not anticipate that the time required to incorporate the Corporations will be significantly greater than that required to incorporate USAC alone. In addition, because of the distinct nature of the schools and libraries and rural health care programs, we expect that the process of hiring and training staff to administer those programs will not be more time consuming merely because staff are employed by particular corporations as opposed to reporting to particular committees within a corporation. To the extent that there may be overlapping functions, the Corporations will be encouraged, as both a cost and time saving measure, to enter into contracts with NECA or USAC for the performance of such functions. Finally, we anticipate that individuals within a smaller corporate structure may be able to make decisions more rapidly than could the same individuals within a larger corporate structure.

70. Given that an independent auditor will perform an annual audit of each corporation and that the performance and projected administrative expenses of each corporation will be closely monitored by the Commission, we reject the assertion that a single corporate structure ensures greater accountability of program administrators. In addition, we conclude that several of NECA's remaining concerns are addressed by the fact that the Corporations will continue to perform the same functions for the permanent administrator as they will for USAC, notwithstanding the identity of the permanent administrator. Specifically, we conclude that the permanent nature of the Corporations will make them more "user friendly" to program participants because they will be permanent, easily recognizable entities as opposed to transitional entities. For this reason, we also reject the assertion that a

single corporate structure will better facilitate the transition to a permanent administrator, since the entities whose creation we require in this Order will continue to perform the same functions for the permanent administrator. For all of these reasons, we conclude that the potential disadvantages that NECA maintains are associated with the administrative structure set forth herein are outweighed by the benefits that we anticipate will be realized by this structure.

I. Implementation Issues

71. Creation and Scope of Authority of USAC. As noted above, we direct NECA to establish USAC as a separate subsidiary. This separate subsidiary will have separate directors, pursuant to the requirements set forth above, and will maintain separate books of account from those of NECA's other operations. We direct that the appointment of NECA as the temporary administrator will become effective coincident with NECA's incorporation of the USAC subsidiary and the Corporations. We direct USAC to develop the necessary database systems, hire and train personnel, and discuss with contributors the assessment of universal service support requirements. We emphasize that, in its role as the temporary administrator, USAC may engage only in activities directly related to administration of the universal service support mechanisms. We further find that USAC Board and High Cost and Low Income Committee meetings shall be open to the public and shall be held in Washington, D.C., because this city is easily accessible and also may be particularly convenient for the many interested parties that have offices or representatives in the Washington, D.C. area. We also conclude that USAC Board members shall be entitled to receive reimbursement for expenses directly incurred as a result of their participation on the USAC Board.

72. Creation and Scope of Authority of Schools and Libraries and Rural Health Care Corporations. We direct NECA to incorporate the Schools and Libraries and Rural Health Care Corporations and to take such steps as are necessary to ensure that the Corporations are unaffiliated with either NECA or USAC once the Corporations begin to perform their universal service functions. We assign to the Schools and Libraries Corporation and the Rural Health Care Corporation the authority to perform the functions designated in section IV.H. above. We anticipate that the Corporations may need to engage in transactions with either NECA or USAC to enable them to begin operations as quickly as possible. Such transactions may include contracts for services of NECA and/or USAC employees, loans for the administration of the universal service support mechanisms, and transfers of assets. Start-up funds for the Corporations may not come from the TRS Fund or from TRS administrative accounts. We expect, however, that the Corporations will hire individuals other than NECA or USAC employees to perform functions unrelated to USAC's functions as described in section IV.H., such as reviewing schools' and libraries' technology plans. We also anticipate that the Corporations may seek to borrow start-up funds directly from commercial lenders.

73. We emphasize that, in administering the schools and libraries and rural health care programs, the Corporations may engage only in activities directly related to administration of the program for which each was created. We further find that the Corporations' Board meetings shall be open to the public and shall be held in Washington, D.C., because this city is easily accessible and also may be particularly convenient for the many interested parties that have offices or representatives in the Washington, D.C. area. We also conclude that the Corporations' Board members shall be entitled to receive reimbursement for expenses directly incurred as a result of their participation on that Corporation's Board.

74. Intercorporate Transactions. As noted above, we anticipate that USAC and the Corporations may engage in transactions with NECA. We expect that NECA, USAC, and the Corporations will engage in such transactions whenever doing so would minimize expenses. We direct NECA and USAC to provide such services, including loaning start-up funds, upon the request of the Corporations on reasonable terms. As with the Corporations' start-up funds, mentioned above, start-up funds for USAC may not come from the TRS fund or from TRS administrative expense accounts.¹⁵⁶ All transactions that occur between NECA and USAC must be conducted on an arm's length basis. For transactions between NECA and USAC, NECA will be subject to the Commission's affiliate transaction rules.¹⁵⁷ We also direct NECA to revise its cost allocation manual (CAM) to reflect the formation of USAC.¹⁵⁸

75. Accounting and Auditing Requirements. Concerns about fraud, waste, and abuse occurring in universal service support programs lead us to impose specific accounting and auditing requirements for USAC and the Schools and Libraries and Rural Health Care Corporations. Thus, USAC will maintain books of account in accordance with generally accepted accounting principles (GAAP) that are separate from NECA's books of account. Similarly, the Corporations will maintain books of account in accordance with GAAP that are separate from USAC's books of account and separate from each other. We direct that an audit be performed of USAC's and the Corporations' books on an annual basis by an independent auditor. In our *Accounting Safeguards Order*, we established specific audit procedures applicable to separate subsidiaries of the BOCs under section 272(d) of the Act.¹⁵⁹ Because we conclude that oversight of the administration of the universal service support

¹⁵⁶ See 47 C.F.R. § 64.604(c)(4)(iii)(H).

¹⁵⁷ See 47 C.F.R. § 32.27. See also Joint Cost Order, Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, *Report and Order*, 2 FCC Rcd 1298 (1987), modified on recon. 2 FCC Rcd 6283 (1987); Implementation of the Telecommunications Act of 1996; *1996 Safeguards Order*.

¹⁵⁸ See 47 C.F.R. § 64.903.

¹⁵⁹ See Implementation of the Telecommunications Act of 1996; Accounting Safeguards under the Telecommunications Act of 1996, *Report and Order*, 11 FCC Rcd 17539 (1996) (*1996 Safeguards Order*).

mechanisms is necessary to ensure the integrity of the support mechanisms, we apply to USAC and the Corporations audit requirements similar to those contained in section 53.209 *et seq.* of our rules.¹⁶⁰ Before selecting the independent auditor, USAC and the Corporations shall submit to the staff of the Bureau preliminary audit requirements, including the proposed scope of the audit and the extent of the compliance and substantive testing. The Bureau will review the preliminary audit requirements to determine whether they are adequate to meet the audit objectives. The Bureau will make any modifications that it deems necessary to the audit requirements. After the audit requirements have been approved by the Bureau, USAC and the Corporations each shall engage an independent auditor to conduct an agreed-upon procedures audit¹⁶¹ following the procedures determined by the Bureau. In making its selection, neither USAC nor the Corporations shall engage an independent auditor that has been involved in designing the accounting or reporting systems under review in the audit. In addition, USAC and the Corporations each shall require the independent auditor selected to develop a detailed audit program based on the final audit requirements and submit such audit program to the Bureau staff, which will determine whether any modifications are necessary for purposes of incorporating the proposed audit program into the final audit program.

76. Because the audit program is an agreed-upon procedures audit that will be conducted to assure that USAC's and the Corporations' administration of the support mechanisms serves the public interest, USAC and the Corporations each shall require the independent auditor it selects to inform the Bureau, during the course of an audit, of any revisions the auditor makes to the final audit program or scope of the audit. USAC shall require the independent auditor to notify the Bureau of any meetings with USAC or NECA in which audit findings are discussed, so that the Bureau can be kept apprised of audit results and can ensure that the audit program is conducted in accordance with Commission rules. Similarly, the Corporations shall require the independent auditor to notify the Bureau of any meetings with the Corporations in which audit findings are discussed. In addition, USAC and the Corporations each shall require the independent auditor selected to submit to the Bureau any accounting or rule interpretations that either USAC or the Corporations find necessary to make to complete the audit. By receiving the above information, the Bureau will be able to ensure that the auditor examines areas the Bureau has determined require review and that the Commission's rules are being followed.

77. USAC and the Corporations each shall require the independent auditor selected,

¹⁶⁰ See 47 C.F.R. § 53.209 *et seq.*

¹⁶¹ According to generally accepted auditing standards, an agreed-upon procedures audit is one in which the parties involved (i.e., the accountant and the client) determine the nature and scope of the audit. See *Statement on Standards for Attestation Engagements No. 1*, at 100.56-.61, 100.47-.48 (March 1986). Here, although USAC and the Corporations will be clients, the Commission, through its rulemaking authority, will set forth the nature and scope of the audit to be agreed upon by both USAC and the auditor and the Corporations and the auditor.

within 60 days after the end of the audit period, but prior to discussing the audit findings with USAC, NECA, or the Corporations, to submit a draft of the audit report to the Bureau. We conclude that submission of the audit report to the Bureau in this time period will permit an orderly release of the report while also allowing the Bureau to assess the validity of the report's findings and the adequacy of the work product. The independent auditor may request additional time to perform additional audit work as recommended by the Bureau staff. USAC and the Corporations each shall require the independent auditor selected to submit the audit to USAC and the Corporations, respectively, for their response to the audit findings. Within 30 days after receiving the audit report, USAC and the Corporations each shall respond to the audit findings and send a copy of their response to the Bureau staff. USAC and the Corporations also shall submit to the Bureau staff any reply that the independent auditor may provide relating to USAC's and the Corporations' response. In addition to the annual audit, we direct that a close-out audit of USAC's and the Corporations' operations should be performed within six months of the permanent administrator's beginning operations.

78. Recovery of Administrative Expenses. The permanent administrator's, USAC's, Schools and Libraries Corporation's, and Rural Health Care Corporation's annual administrative expenses, which may include, but are not limited to, salaries, equipment costs, costs associated with borrowing funds, operating expenses, directors' reimbursement for expenses, and costs associated with auditing contributors or support recipients, should be commensurate with the administrative expenses of programs of similar size. Once projections of the next quarter's administrative expenses have been approved by the Commission,¹⁶² USAC shall disburse funds to the Schools and Libraries and Rural Health Care Corporations for administrative expenses for the next quarter. The Corporations shall submit to the Commission projected quarterly budgets at least 60 days prior to the start of every quarter. The Corporations' first projected budgets will include administrative expenses, including any interest, incurred prior to the first budget filing deadline. USAC will disburse payments to the Corporations on a quarterly basis. Each of the Corporations will receive such payments from the permanent administrator under the same terms as payments will be received from USAC pursuant to this Order.

79. Nondisclosure of Information. The Commission will have full access to all data received by the permanent administrator, USAC, and the Corporations. Requests for Commission nondisclosure can be made under section 0.459 of the Commission's rules at the time that the subject data is submitted to USAC or the Corporations.¹⁶³ As required by our rules, such requests for nondisclosure must contain a statement of the reasons for withholding

¹⁶² Projected quarterly administrative expenses will be deemed approved by the Commission if the Commission does not act within 14 days following publication of the projections along with the projections of demand in a Public Notice.

¹⁶³ 47 C.F.R. § 0.459.

the materials from disclosure (e.g., competitive harm) and the facts supporting that statement. In any event, all decisions regarding disclosure of company-specific information will be made by the Commission. Therefore, we will require the administrator, USAC, and the Corporations to keep confidential all data obtained from universal service contributors, not to use such data except for purposes of administering the universal service support mechanisms, and not to disclose such data in company-specific form unless directed to do so by the Commission.

80. Universal Service Worksheet. The Universal Service Worksheet, which directs each contributing carrier or entity to provide, on a semi-annual basis, identification information and information regarding end-user telecommunications revenues, is attached hereto as Appendix C. After the Worksheet has been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995,¹⁶⁴ copies of the Worksheet may be obtained from USAC or the FCC website. Carriers and contributing entities are required to provide on the Worksheet gross, end-user interstate, intrastate, and international telecommunications revenues information. An officer of the contributing carrier or entity must certify to the truth and accuracy of the Worksheet. The Worksheet will be subject to verification by the Commission, the permanent administrator, or USAC at the discretion of the Commission. Failure to file the Worksheet or to submit required contributions may subject the contributor to the enforcement provisions of the Act and any other applicable law.¹⁶⁵ The permanent administrator or USAC will advise the Commission of any enforcement issues that arise and provide any suggested response.

81. Bureau Authority to Modify Reporting Requirements. Because it is difficult to determine in advance precisely the information that will be needed to administer the new universal service programs, the Bureau will have delegated authority to waive, reduce, or eliminate contributor reporting requirements that may prove unnecessary. The Bureau also will have delegated authority to require any additional contributor reporting requirements necessary to the sound and efficient administration of the universal service programs.

82. Transition to Permanent Administrator. We emphasize that our appointment of NECA as the temporary administrator of the universal service support mechanisms subject to its establishment of USAC and the Corporations does not suggest that NECA or USAC will be selected as the permanent administrator, nor does it suggest that NECA or USAC will receive special consideration in the selection of a permanent administrator. We condition NECA's appointment as temporary administrator on NECA's and USAC's agreeing to the requirements of this Order, including making available, if NECA is not appointed permanent administrator, any and all intellectual property, including, but not limited to, all records and

¹⁶⁴ 44 U.S.C. §§ 3501, *et seq.*

¹⁶⁵ *See, e.g.,* 47 U.S.C. §§ 206-209, 312, 403, 503.

information generated by or resulting from its performance as temporary administrator, to whomever the Commission directs, free of charge.¹⁶⁶ Similarly, although the Corporations will continue to have the same role in administering the schools and libraries and rural health care programs once a permanent administrator has been appointed as they will have with the temporary administrator, we nevertheless require the Corporations, as a condition of their role in the administration process, to make available to whomever the Commission may direct, free of charge, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from their role in administering the universal service support mechanisms if their participation in administering the schools and libraries and rural health care programs should discontinue at any time. NECA, USAC, and the Corporations must specify any property they propose to exclude from the foregoing category of property based on the existence of such property prior to NECA's assumption of duties pursuant to this Order. We note that a federal advisory committee will be established to recommend to the Commission a permanent administrator of the universal service support mechanisms. Under the circumstances just described, we also direct NECA, USAC, and the Corporations to cooperate fully with the permanent administrator's efforts to assume its duties.

V. PROCEDURAL MATTERS

A. Final Regulatory Flexibility Analyses

83. This Order achieves two main goals. First, we amend our rules to direct NECA to establish an independently functioning subsidiary (USAC) so that, as required by the Universal Service Order,¹⁶⁷ non-ILEC interests are represented in the administration of the universal service support mechanisms.¹⁶⁸ We further direct NECA to create two unaffiliated corporations to administer specific aspects of the universal service support mechanisms for schools and libraries and rural health care providers, respectively. For purposes of the Regulatory Flexibility Act (RFA), we certify, pursuant to 5 U.S.C. § 605 that these actions will not have a significant impact on a substantial number of small entities. Second, in this Order, we set forth the procedures that the permanent administrator and temporary administrator will follow to determine the amount of required universal service contributions and to collect such contributions from carriers and other affected entities. For this part of the Order, we have prepared a Final Regulatory Flexibility Analysis (FRFA), as required by 5 U.S.C. § 603.

¹⁶⁶ Such property includes, for example, databases, processing systems, computer software programs, lists, records, information, or equipment created or purchased and used in the temporary administration of the universal service support mechanisms.

¹⁶⁷ See Universal Service Order at para. 866.

¹⁶⁸ See Universal Service Order at para. 866.

1. Certification

84. In the NECA NPRM, the Commission tentatively certified that the rules it proposed to adopt in this proceeding would not have a significant economic impact on a substantial number of small entities because the proposed rules did not pertain to small entities.¹⁶⁹ We did not receive any comments concerning our proposed certification. For the reasons stated below, we certify that the rules directing NECA to create USAC to administer temporarily certain aspects of the universal service support mechanisms and directing NECA to establish two unaffiliated corporations to administer specific aspects of the schools and libraries and rural health care programs, will not have a significant economic impact on a substantial number of small entities.¹⁷⁰ This certification conforms to the RFA, as amended by the Small Business Regulatory Fairness Act of 1996 (SBREFA).¹⁷¹

85. The NECA NPRM certified that no regulatory flexibility analysis was required because the proposed rule changes applied only to NECA, and NECA is not a small organization within the meaning of the RFA. NECA is a non-profit, quasi-governmental association created to administer the Commission's interstate access tariff and revenue distributions processes and is not dominant in its field.¹⁷² Furthermore, we found that the amendments to our rules proposed in the NECA NPRM did not apply to other "small business concerns" because they proposed to modify the composition of NECA's Board of Directors.

86. In the NECA NPRM, we tentatively concluded that NECA's governance structure needed to become more representative of the industry as whole in order for NECA to be appointed the temporary administrator. In the Universal Service Order, we appointed NECA temporary administrator on the condition that NECA make changes in its governance that would render it more representative of non-ILEC interests. This Order adopts rules directing NECA to create an independently functioning subsidiary (i.e., USAC) to temporarily administer certain aspects of the universal service support mechanisms and directing NECA to create two unaffiliated corporations to administer certain aspects of the schools and libraries and rural health care programs. We have not received any comments requesting that we modify our initial certification that this rule change will not have a significant economic

¹⁶⁹ NECA NPRM at paras 19-21.

¹⁷⁰ 5 U.S.C. § 605(b).

¹⁷¹ 5 U.S.C. §§ 601-611. The Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, was amended by the "Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), Subtitle II of the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA).

¹⁷² See 47 C.F.R. §§ 69.601, 69.603. NECA subsequently assumed responsibility for administering the existing universal service fund (47 C.F.R. §§ 69.116, 69.603), the Lifeline Assistance program (47 C.F.R. §§ 69.117, 69.603), the LTS program (47 C.F.R. §§ 69.2(y), 69.612), and TRS fund (47 C.F.R. § 64.604(c)(4)(iii)).

impact on a substantial number of small entities. We therefore certify pursuant to section 605(b) of the RFA that the rules adopted in this Order directing NECA to create an independent subsidiary to administer temporarily certain aspects of the universal service support mechanisms and directing NECA to create two unaffiliated corporations to administer certain aspects of the schools and libraries and rural health care programs, will not have a significant impact on a substantial number of small entities.

2. Final Regulatory Flexibility Analysis

87. As required by section 603 of the RFA, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the 254 NPRM.¹⁷³ The Commission also prepared an IRFA in conjunction with the Recommended Decision, seeking written public comment on the proposals in the 254 NPRM and Recommended Decision and included a FRFA in the Universal Service Order.¹⁷⁴ In our NECA NPRM, we tentatively certified that the rule amendments under consideration would not have a significant economic impact on a substantial number of small entities. We did not receive any comments concerning the proposed certification. The Commission's FRFA in this Order conforms to the RFA, as amended.

a. Need for and Objectives of this Order and the Rules Adopted Herein.

88. The Commission is required by sections 254(a)(2) and 410(c) of the Act, as amended by the 1996 Act, to promulgate these rules to implement promptly the universal service provisions of section 254. In the Universal Service Order, we adopted rules whose principal goal is to reform our system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. The rules adopted in this Order clarify the structure and responsibilities of the temporary administrator and unaffiliated corporations and describe the steps these three entities must undertake in administering the universal service support mechanisms adopted in the Commission's Universal Service Order.

b. Summary and Analysis of the Significant Issues Raised by Public Comments in Response to the IRFA.

89. No comments in response to the IRFA in addition to those described in the

¹⁷³ 254 NPRM at paras. 135-142.

¹⁷⁴ 61 Fed. Reg. 63,778, 63,796 (1996).

Universal Service Order¹⁷⁵ were filed.

c. Description and Estimates of the Number of Small Entities to Which the Rules Adopted in This Report and Order will Apply.

90. In the FRFA to the Universal Service Order, we described and estimated the number of small entities that would be affected by the new universal service rules, including the rule requiring telecommunications carriers and other entities to contribute to the universal service support mechanisms. The rules adopted here, which set forth the procedures by which contributions will be made to the universal service support mechanisms, will apply to the same telecommunications carriers and entities affected by the universal service rules. We therefore incorporate by reference paragraphs 890-922 of the Universal Service Order, which describe and estimate the number of affected telecommunications carriers and entities.¹⁷⁶

d. Summary Analysis of the Projected Reporting, Recordkeeping, and Other Compliance Requirements and Significant Alternatives and Steps Taken to Minimize the Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.

Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements.

91. Section 254(d) states "that all telecommunications carriers that provide interstate telecommunications services shall make equitable and nondiscriminatory contributions" toward the preservation and advancement of universal service. The Universal Service Order FRFA¹⁷⁷ describes the obligation of telecommunications carriers and other providers of telecommunications services to contribute to the universal service support mechanisms and the concomitant requirement that they provide information regarding their end-user telecommunications revenues. This Order establishes the specific procedures that telecommunications carriers and other providers of telecommunications services will follow in providing such information to the administrator and temporary administrator. To compute carrier contributions, contributors must submit a semi-annual universal service Worksheet. The Worksheet will require all contributors to submit information relating to revenues derived from end users for telecommunications or telecommunications services to the administrator and temporary administrator of the support mechanisms. Contributors also will be required to

¹⁷⁵ Universal Service Order at paras. 874-881.

¹⁷⁶ See Universal Service Order at paras. 890-922.

¹⁷⁷ See Universal Service Order at para. 980.

submit a quarterly payment to the administrator or temporary administrator of the support mechanisms. Contributors that provide services to schools, libraries, and rural health care providers may be eligible to receive a credit against their contributions. Contributors seeking a credit must submit to the administrator or temporary administrator additional information regarding the services provided at less than their pre-discount price to receive the credit. Approximately 5,000 telecommunications carriers and providers will be required to submit revenue information and payments. We sought to limit the information requirements to the minimum necessary for evaluating and processing the application and to deter possible abuse of process. These tasks may require some legal and accounting skills.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.

92. Pursuant to section 254(d), we concluded in the Universal Service Order that carriers with annual contributions of less than \$100 will be exempt from universal service contribution and reporting requirements. Nothing in this proceeding leads us to alter our conclusion in the FRFA of the Universal Service Order¹⁷⁸ that the *de minimis* exception in section 254(d) may not properly be interpreted to except, on the basis of their size, small carriers and other telecommunications providers from the obligation to contribute to the universal service support mechanisms or to decrease the relative amount that they must contribute.

e. Report to Congress

93. The Commission shall send a copy of the FRFA and certification, along with the Report and Order, in a report to Congress pursuant to the SBREFA, 5 U.S.C. § 801(a)(1)(A). A copy of the certification also will be sent to the Chief Counsel for Advocacy of the SBA. Finally, a copy or a summary of this FRFA and certification also will be published in the Federal Register.

B. Effective Date

94. With respect to the rules adopted herein that are not subject to the PRA, we find good cause to depart from the general requirement of 5 U.S.C. § 553(d) that final rules take effect not less than 30 days after their publication in the Federal Register. We find good cause to make the rules effective upon publication in the Federal Register for the reasons described below.

95. First, the speedy establishment of both the USAC subsidiary and the

¹⁷⁸ See para. 982.

Corporations, is crucial to the Commission's effort to implement promptly and effectively the new universal service program mandated by section 254 of the Act. The Commission's Universal Service Order requires that the program begin by January 1, 1998. To initiate the program, and most notably the schools and libraries program by that date, the USAC subsidiary and the Corporations must complete quickly a number of administrative functions. USAC and the Corporations may not begin to perform these functions until certain preliminary tasks, some of which may require substantial, time-consuming deliberations among interested parties, are completed. Such preliminary tasks include the incorporation of both USAC and the Corporations and the appointment of these entities' Boards of Directors.

96. We also find good cause to make the rules governing establishment of the USAC subsidiary and the Corporations and appointment of these entities' Boards of Directors effective upon publication in the Federal Register. We make this determination because the rules adopted here are based, at least in part, on the reform proposal that NECA filed with the Commission on January 10, 1997, in which NECA expressed willingness to immediately begin establishing a subsidiary corporation to administer temporarily the universal service support mechanisms.¹⁷⁹ Furthermore, NECA has had notice of its appointment as temporary administrator since the release of the Universal Service Order on May 8, 1997, designating NECA as the temporary administrator.¹⁸⁰ Under these circumstances, the purpose of 5 U.S.C. § 553(d), to ensure an adequate period in which regulated entities may prepare to comply with new rules, can be met without affording the usual 30-day period prior to the rules' effective date. For this and the other reasons described above, we find good cause to make the rules regarding the establishment of the USAC subsidiary and the appointment of its Board members effective upon publication in the Federal Register.

VI. ORDERING CLAUSES

97. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4(i), 218-220, 254 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201-05, 218-20, 254 and 403, that Parts 54 and 69 of the Commission's Rules, 47 C.F.R. Parts 54 and 69, are amended, as specified in this ORDER and attached as Appendix B hereto. The collections of information contained within are contingent upon approval by the Office of Management and Budget. Notice of that approval and availability of the Worksheet will be published in the Federal Register.

98. IT IS FURTHER ORDERED that, pursuant to section 553(d)(3) of the Administrative Procedures Act, 5 U.S.C. § 553(d)(3), except for the rules subject to the Paperwork Reduction Act (PRA), the rules adopted in this ORDER shall, for good cause

¹⁷⁹ See NECA January 10, 1997 Letter.

¹⁸⁰ See Universal Service Order at para. 866.

shown, become effective upon publication in the Federal Register.¹

99. IT IS FURTHER ORDERED that, pursuant to section 5(c)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c)(1), authority is delegated to the Chairman of the Commission to perform the following functions: (1) to review nominations to the USAC Board and select USAC Board members; (2) to review the nomination for the rural health care representative and select the representative who will serve only on the Rural Health Care Board; (3) to select the independent directors who will serve on the Schools and Libraries and Rural Health Care Corporation's Boards; and (4) to review and approve candidates for Corporation CEO positions.

100. IT IS FURTHER ORDERED that, pursuant to section 5(c)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c)(1), authority is delegated to the Chief, Common Carrier Bureau to perform the following functions: (1) to waive, reduce, or eliminate any contributor reporting requirements that prove to be unnecessary or to require contributors to submit any additional reporting requirements that the Bureau deems necessary to the efficient administration of the universal service support mechanisms; and (2) to oversee and to modify, as necessary, the annual audit of USAC and the Schools and Libraries and Rural Health Care Corporations.

101. IT IS FURTHER ORDERED that, pursuant to sections 1 and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), the members of the industry or non-industry groups that will be represented on the Board are directed to submit their nominees selected by consensus for USAC directors to the Chairman of the Federal Communications Commission within 14 calendar days of the publication of this Order in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

¹ See para. 42 for the rules subject to the Paperwork Reduction Act.

**Statement of Chairman Reed E. Hundt
Re: Administration of Universal Service**

On May 8th of this year we voted unanimously to transform the universal service system of support as required by Congress in Section 254 of the 1996 Telecommunications Act. The new universal service system continues to ensure low rates for basic phone service across the country, while providing for a more efficient and competitively neutral collection and compensation scheme.

Fulfilling Congress' mandate, we also voted unanimously to commit up to \$2.25 billion a year in universal service funds to bring telecommunications services to our nation's classrooms and libraries and up to \$400 million a year in support for the provision of telecommunications services to rural public and non-for-profit health care facilities at rates comparable to those in urban areas. The \$2.25 billion annual fund for schools and libraries represents the largest investment this country has made on a national level in the infrastructure of our public school system in this century. Made wisely and well, this investment can truly be a transforming force that will put a world of resources at the disposal of even the poorest schools and libraries -- opening up new worlds of learning for every single child in the country -- regardless of income or location.

With this Order we establish a framework for universal service administration and implementation that recognizes the many significant changes in the system. The new framework paves the way for the effective, efficient and accountable administration of the fund to low income consumers, residents of high cost areas as well as to schools, libraries and rural health care facilities.

As the Joint Board recommended, in order to get the system up and running quickly, we appoint NECA as the interim administrator, subject to certain changes in its governance and structure that will render it more representative of a broad range of interests. Specifically, we direct NECA to create a separate, not-for profit, subsidiary (USAC) that will administer the support mechanisms for high cost areas and low income consumers as well as perform all billing and collection functions. We direct that the USAC board be comprised of a balanced and fair representation of all contributing and recipient carriers, state regulators and representatives of each of the intended beneficiaries.

We are altering, however, from our earlier determination that the universal service administrator should select a subcontractor to administer the fund temporarily with respect to schools, libraries and rural health care providers. Instead, we direct NECA to create two independent, non-profit corporations to manage most all aspects of the administration of the universal service fund with respect to schools, libraries and rural health care providers. These

corporations will be solely responsible for administering the application process for schools and libraries and rural health care providers, respectively, including disseminating, processing and reviewing applications for service, approving technology plans, creating and maintaining databases and websites on which applications for services will be posted for competitive bid, performing outreach and public education functions, making and submitting quarterly projections of demand for funding and conducting or authorizing the performance of audits. The establishment of these separate corporations will provide a management structure and expertise that is needed to ensure the effective administration of the universal service program for schools, libraries and rural health care facilities.

A majority of the Commission decided that this structure would better serve the goals of effective, efficient and accountable management and administration with respect to schools, libraries and rural health care facilities than the subcontractor approach we earlier adopted. I believe that this approach will also better serve those goals than the subcommittee approach suggested by Commissioner Chong in her dissenting statement.

Our decision to adopt this approach was based on thorough consideration of the merits of various operational structures including board committees, separate corporations, partnerships, associations and subcontractors. Our consideration was guided by the shared goals of establishing a system for rapid implementation and cost-effective, efficient and accountable administration of the program to meet the specialized needs of schools, libraries, rural health care providers, low income consumers and residents of high cost areas. I believe that the separate corporate structures outlined in the order will best achieve these goals for the reasons set forth below.

I. Separate Corporations will be more effective, accountable, and efficient than establishing a series of subcommittees of USAC.

A separate corporate structure will permit the continued existence of legally-cognizable and independent entities with sole responsibility and accountability for efficiently and effectively managing the administration of universal service funds to schools, libraries and rural health care facilities. Corporations are a desirable organizational structure generally because they provide limited liability for their shareholders and are treated as independent legal entities with the power to sue, to purchase or lease property, to lend or borrow money, to enter into contracts, and to make or alter by-laws. The corporate structure also provides an effective, established model for governing the complex relationships among the shareholders (or other beneficiaries), directors, officers, managers, creditors and others participating in the business of the corporation. The entities administering the universal service fund for schools, libraries and rural health care facilities must be able to exercise these powers if they are to operate effectively.

The separate corporate structure will also ensure greater clarity, simplicity and

efficiency of decision making. The lines of authority in a corporation are clear and direct: reporting runs from managers to a CEO to the Board of Directors. Accountability is clear and more direct. In a committee or subcontractor structure, the lines of authority are more convoluted and accountability is more diffuse. Under the committee approach it is unclear who the schools, libraries and health care staffs would report to -- directly to the board committee or through the CEO of USAC (who would also be answerable to the full USAC board).

In order to ensure that the universal service funds are invested wisely and efficiently, the entities responsible for administering funds for schools, libraries and rural health care facilities must be vested with clear management authority and responsibility to carry out all aspects of administration of the funds to these entities. Decisions about projected funding, prioritization of expenditures, approval of applications and long range planning must be made quickly, effectively and with accountability without being subjected to a burdensome bureaucratic process. In addition, given the broad representation of different groups on the USAC board, the entities charged with administering these aspects of the fund must have the unimpaired ability to vigorously defend themselves against legal challenges.

The continued existence of these separate corporations is also important to ensure continuity and efficiency in the administration of funds for schools, libraries and rural health care facilities. In order to ensure that the new funding mechanism is in place as quickly as possible, we have appointed NECA to serve as the temporary administrator. No decision has been made with respect to the permanent administrator. Because the schools/ libraries and health care corporations are separate legal entities, they will survive the dissolution of USAC in the event that NECA is not selected to serve as the permanent administrator. Under these circumstances, the schools/libraries and health care corporations could quickly and easily contract with the permanent administrator to continue administering the program for these entities. This would ensure the continued smooth operation of universal service support and eliminate the need to spend additional funds on redundant start up costs. The continuing role of the schools and health care corporations will also help to attract qualified personnel with the expertise necessary to effectively implement the program with respect to schools, libraries and rural health care providers. The continued involvement of these corporations will also provide incentives for better management in the early phases of the program and will provide incentives for more strategic, long-range planning and better use of resources.

II. Administration of funds to schools/libraries and rural health care providers through a sub-committee or division of the USAC Board would be administratively cumbersome and could undermine the effective administration of the program.

The USAC Board will have substantial representation from telecommunications carriers some of which have argued against or challenged the funding for schools and libraries and rural health care facilities. The USAC CEO will serve at the pleasure of that Board. Therefore, if we were to adopt a subcommittee structure, we would necessarily have to

devise a complicated and indirect reporting structure to preserve and protect the autonomy of the directors of the schools and health care subcommittees. Moreover, such management by a board committee is awkward and inefficient. Boards generally monitor rather than manage the day-to-day operations of most corporations. Thus, management by committee in this instance, would likely lead to less effective, efficient or accountable administration of funds.

Finally, I do not believe that the administration of universal service funds to schools, libraries or rural health care facilities through two separate corporations rather than through two separate USAC committees will result in either substantial delays or increased administrative costs. Differences in the way funds will be administered to and used by schools, libraries and rural health care providers will result in the need to establish separate processes and procedures and to hire specialized staffs with relevant expertise regardless of whether a committee or corporation structure is used. In any event, we direct that the separate corporations should contract with USAC or NECA to the extent necessary to maximize the efficient use of resources and to avoid overlapping expenses.

For the above stated reasons, I am confident that the administrative structure we establish today will help to attract highly qualified, appropriately reimbursed and competent management staff that will ensure accountable, cost-effective and efficient management of the significant resources at issue. Such a structure will thus ensure that universal service funds are invested wisely and effectively to bring the benefits of the information age to classrooms, libraries and rural health care facilities across the country.

**Separate Statement of
Commissioner James Quello**

*Re: Changes to the Board of Directors of the National Exchange Carrier Association, Inc.;
Federal-State Joint Board on Universal Service. CC Docket Nos. 96-45, 97-21.*

I support today's action by the Commission to designate the National Exchange Carrier Association as the temporary administrator of the universal service support mechanisms. I believe that the work of the Commission, especially the effort of the Common Carrier Bureau, and the Joint Board has been commendable. It is clear to me that the real effort in realizing the goals of the universal service program still lies ahead for the Commission, states, both temporary and permanent fund administrators, school districts, libraries, health care facilities, and particularly for telecommunications companies who seek to provide new services and enter new markets.

It is far from clear, however, that the corporate structure created by today's order is the only reasonable mechanism for performing these functions. For example, it is conceivable that administering the funds through committees may be superior to the approach contained in this order. The late date at which I was asked to consider this order complicated my opportunity to consider this option. Consequently, I support today's order with less enthusiasm and less confidence than I would like.

In the Universal Service Order, the Commission stated that the schools and libraries program would become operational on January 1, 1998. In reaching the decision to support the corporations model in this order, I placed considerable emphasis on appointing a temporary administrator in a timeframe that would permit us to meet this deadline. Further delays in appointing the temporary administrator would undermine the critical policy goal of getting the universal service program running on January 1, 1998.

I expect that the temporary administrator will perform, in an effective and thorough manner, the duties necessary to publicize the various programs and to estimate, collect, and distribute funding according to the rules we have adopted. The functioning of the temporary administrator in the coming months and years may demonstrate the wisdom of establishing separate corporations. I sincerely hope that it will.

**Separate Statement
of
Commissioner Susan Ness
Regarding Administration of Universal Service Mechanisms**

Today's order is another important step in our effort to ensure the fulfillment of the universal service objectives established by Congress. With major changes in the universal service system scheduled to become operational January 1, 1998, it is vital that we clear the way for implementation to begin.

Our order appoints NECA as the universal service administrator and provides for the creation of new organizations and procedures that are intended to ensure that the collection and distribution of universal service support is accomplished with efficiency and accountability. While we all have independent views on the structures and processes that would best serve these goals, what matters most at this critical time is to get the process underway. Unnecessary controversy or delay does not serve the interests of low-income consumers, consumers in high-cost areas, students, library users, or rural health care patients.

In my judgment, successful administration of the universal service programs has less to do with the precise structures and processes employed than with the quality of the people involved. Finding the people with the right skills and the necessary dedication to perform functions specific to the schools and libraries program, for example, is obviously essential, but I am at a loss to understand why this task will be more difficult, or time-consuming, as a result of our decision to assign these tasks to a separate corporation rather than a special subcommittee of the Universal Service Administrative Company (as our dissenting colleague now advocates) or a subcontractor to USAC (as the Joint Board had earlier recommended). But having carefully considered all three options, I have come to believe that in this respect we are making the choice that best serves our shared goals.

Use of separate corporations will ensure that the appropriate expertise is targeted to discrete and defined tasks. Decisionmaking will be streamlined, and bureaucracy reduced. This approach will also facilitate direct oversight by and accountability to this Commission, which in turn must account to the Congress and to the American people for the effective administration of the universal service programs. Efficient and cost-effective operations can be ensured by enabling the universal service entities to concentrate on what they do best, and to share resources whenever doing so will be consistent with efficient, responsible, and cost-

effective operations.

I would make no claim of perfection about the structure and processes and plans reflected in this order, even if my own preferences had been, or could be, accommodated at every turn. The plain fact, however, is that universal service administration, like the universal service rules, will necessarily evolve over time. We don't have all the answers today. We will know more later, but only if we get the process underway now.

We can and should adjust our plans as we -- along with industry and beneficiary groups -- learn from experience. For today, our task is to move forward constructively to get workable administrative mechanisms up and running.

Dissenting Statement
of Commissioner Rachelle B. Chong

Re: In the Matters of Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service, Report and Order and Order on Reconsideration, CC Docket Nos. 97-21, 96-45

I respectfully dissent to today's Report and Order and Order on Reconsideration involving changes to the Board of Directors of the National Exchange Carrier Association, Inc. (NECA). While I remain fully committed to the success of the universal service support mechanisms and specialized programs contained in our May 7, 1997 Universal Service Report and Order (Universal Service Order), I object to this order because the majority casts aside the Joint Board's November 1996 decision to entrust NECA as the temporary administrator of the universal service program.¹⁸² Instead, the majority adopts a cumbersome new structure that will likely result in slower decision making and impose higher administrative costs on the Section 254(h) schools/library and rural health care programs. In addition, I have grave concerns about the implementation time necessary for the corporate structure adopted today. From a practical point of view, NECA does not have enough personnel to "loan" to USAC and the two new corporations in the short term, while it searches for high quality, full time officers and employees for the corporations. Given this late date, I fear the corporate structure chosen today may seriously endanger a timely start for our schools/library and rural health care programs.

Fiscal Responsibility for the Section 254(h) Programs Is Imperative

Throughout the implementation of the universal service provisions of the Telecommunications Act of 1996 (1996 Act), I have repeatedly said that we must not forget that "job one" is getting affordable, quality telephone service to every American household across the nation.¹⁸³ To that end, our highest priority should be ensuring that our universal

¹⁸² *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 12 FCC Rcd 87, paras. 832-33 (1996)(Joint Board Recommended Decision); *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, para. 866 (released May 7, 1997).

¹⁸³ Separate Statement of Commissioner Rachelle B. Chong, Concurring in Part, Dissenting in Part, *Re: In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, at 6 (released May 7, 1997).

service programs encourage the highest level of subscribership, using mechanisms such as high cost assistance and low income programs, particularly for areas of chronically low subscribership.¹⁸⁴

In Section 254(h) of the 1996 Act, Congress also asked that the Commission collect money from every telecommunications carrier to fund two social programs to provide discounted telecommunications service to schools, libraries and rural health care providers. The benefits of such programs are clear.

In implementing Section 254(h), however, I believe we must balance our enthusiasm for such social programs against a sober regard for how much the costs of those programs mean to the basic telephone rates of an average consumer. If basic telephone rates go up because of the Section 254(h) social programs, how does this impact our overriding goal of achieving 100% subscribership in the underserved and unserved areas of the nation? While improving telecommunications services to the education, library and the rural health care communities is clearly an important goal, it is my view that our achievement of these social programs must not come at the detriment of other consumers.

Thus, in light of these concerns, I believe we have a duty to be fiscally responsible in our administration of the Section 254 support mechanisms. As to the Section 254(h) programs, we should be conservative in the administrative procedures that we set up, and ensure that it is efficient and nonburdensome. We must guard against waste, fraud and abuse by retaining administrative oversight where necessary. And finally, it is imperative that we set up all our procedures in a timely manner that allows the program to begin on January 1, 1998, as provided for in our Universal Service Order.

Keeping It Simple

I dissent to this item because, instead of taking a conservative and cost conscious approach, the majority has instead created an elaborate structure that is breathtaking in its breadth and complexity. While I can see a few benefits to this structure, I do not find that they outweigh the detriments, including increased costs of the corporate structure, increased implementation time, and more difficult accountability due to a more convoluted structure.

My preference for the structure of the interim universal service administrator would have been to have NECA establish USAC, and then form three *subcommittees* under USAC for the schools/library, rural health care and high cost/low income programs. This simple

¹⁸⁴ E.g., Native American tribal lands, very remote areas such as the Alaskan Bush, and insular areas such as Hawaii, the Commonwealth of the Northern Marianas Islands, Guam and Puerto Rico.

proposal, which was also NECA's preferred approach,¹⁸⁵ would have retained the benefits of having individuals administer the schools/library and rural health care programs that have "expertise" and a "direct stake in the success of the programs,"¹⁸⁶ but without the cumbersome corporate structure mandated by the majority decision. This structure would also have operated more efficiently by avoiding duplication of functions between the corporations and minimizing the amount of coordination needed among the multiple companies. Accountability is also retained in the subcommittee structure; each subcommittee would hire staff to run the day-to-day operations and would report to the particular USAC Board members serving on that subcommittee. These USAC Board members are responsible for the functions assigned to that subcommittee and would be directly accountable to the FCC pursuant to our authority over NECA.

The majority, however, has taken a more complicated route. First, they have created a large USAC Board consisting of 17 members. On this point, I would have preferred a smaller USAC Board. A smaller board would have been vastly more efficient, because it could achieve more nimble decision-making with lower administrative costs. Although I agree that the USAC Board should be composed of a broad cross-section of interested parties, I do not see the need for multiple members of certain industry groups or beneficiary groups, especially in light of the fact that the decision makes clear that USAC's duties are limited to administrative, non-substantive functions (such as billing and collection). Broad and fair representation could have just as easily been achieved with fewer Board members.¹⁸⁷

The Majority Plan May Be Impractical

I believe that the corporate structure adopted in this decision for operation of the schools/libraries and rural health care programs may be impractical because of two basic problems: cost and timing.

As to cost, I note that the Joint Board gave NECA the job of interim administrator because NECA has past expertise in billing and collecting money for our existing low income and high cost programs. The Joint Board (and subsequently the FCC) chose NECA because

¹⁸⁵ NECA *ex parte* letter, filed June 23, 1997.

¹⁸⁶ Majority decision at para. 58.

¹⁸⁷ It is unclear to me why information service providers (ISPs) are included on the USAC Board when ISPs are not mandatory contributors or beneficiaries to the universal service mechanisms, but are merely possible service providers to the Section 254(h) social programs. Others in a like position -- such as internal connection or "inside wire" providers -- were not given a seat on USAC, but have just as much interest in the proceeding as the ISPs.

we believed it could get the job done quickly, efficiently and by our deadline.¹⁸⁸ But today, the majority changes the Joint Board's wise decision to give NECA the full responsibilities of interim administrator and instead, sets up two new corporations to handle the majority of the functions of the schools/library and rural health care programs.¹⁸⁹ I fear this unnecessary corporate structure will prove to be costly at ratepayer expense.

Moreover, setting up and operating two separate corporations unquestionably will be more costly than my proposed alternative of having a single USAC Board, with specialized subcommittees directing the Section 254(h) programs. Typically, nonprofit corporations have a Board of Directors and officers. Corporate officers often include a Chief Executive Officer (CEO), a Chief Financial Officer (CFO), and a Corporate Secretary.¹⁹⁰ Moreover, a corporate structure generally requires bylaws, articles of incorporation, the filing of annual reports, and other corporate activities required by law.

In light of all the above, I believe that the significant expenditures necessary to establish and maintain these two corporate structures may subject our programs to undue criticism, and may eat up funds that could better be used towards discounts on telecommunications services, Internet access, and internal connections by the schools, libraries and rural health care providers.

The second problem with this structure is time. Time is of the essence given our firm January 1, 1998, start date for the Section 254 programs.

At the outset, I must note my great disappointment that, even though the Commissioners were promised this draft decision by mid-February, 1997, in order to have time to consider these implementation issues carefully and still meet our start date for the Section 254(h) programs, it was not until June 20, 1997, that the Chairman's Office released the draft item for the full Commission's consideration. This delay has put significant time pressure on the Commission to put out this decision, and unreasonable time pressures on NECA to implement these changes, and put the mechanisms in place by our deadline.

¹⁸⁸ Universal Service Order at para. 866; Joint Board Recommended Decision at paras. 832-33.

¹⁸⁹ For example, the corporations have the functions of reviewing school and library applications and technology plans, creating and maintaining a web site, performing outreach and public education functions, reviewing bills for services, and submitting quarterly projections of demand and administrative expenses to the Commission.

¹⁹⁰ Corporations also often retain an executive director to oversee day-to-day operations, not to mention a general counsel.

In light of this delay on our part, it seems untenable that we are ordering NECA to establish this complex corporate structure at this time, because this structure will probably take more time to fully implement than we have at this moment. For example, I do not see how qualified officers for the corporations can be located, hired and brought on board quickly enough to begin our schools/library program by January 1, 1998.¹⁹¹ With a \$2.25 billion program at stake, a top quality CEO and CFO must be carefully selected from among qualified candidates. At a minimum, this executive search process will likely take several months. I see no reason to create this problem and I fear that it may result in the program being delayed from the current start date.

Given the importance of the Section 254(h) programs, this structure could be detrimental to the programs' success. Thus, I think we should have remained faithful to the recommendation of the Joint Board to give NECA the job of interim administrator, and we should have adopted a simpler structure utilizing subcommittees.

¹⁹¹ To find a qualified CEO of the schools/library corporation, USAC will need to conduct an executive search, interview numerous candidates, extend an offer, and if the candidate accepts, wait for the new officer to transition from his or her current job, and then give the officer time to come up to speed on the Commission's relevant orders and other USAC implementation actions.

APPENDIX A

PARTIES FILING INITIAL AND REPLY COMMENTS, CC DOCKET NO. 97-21

Initial Comments

<u>Commenter</u>	<u>Abbreviation</u>
American Library Association	ALA
Ameritech	
AT&T Corp.	AT&T
Bell Atlantic and NYNEX	BA and NYNEX
MCI	
National Cable Television Association	NCTA
National Exchange Carrier Association, Inc.	NECA
Pacific Telesis Group	PacTel
Personal Communications Industry Association	PCIA
Rural Telephone Coalition and Unites States Telephone Coalition	RTC and USTA
Southwestern Bell Telephone Company	SWBT
Sprint Corporation	Sprint
U S West, Inc.	U S WEST
Worldcom, Inc.	WorldCom

Reply comments

<u>Commenter</u>	<u>Abbreviation</u>
AT&T Corp.	AT&T
BellSouth Corp.	BellSouth
GTE Service Corp.	GTE
MCI	
National Exchange Carrier Association, Inc.	NECA
Personal Communications Industry Association	PCIA
Rural Telephone Coalition and Unites States Telephone Coalition	RTC and USTA
Southwestern Bell Telephone Company	SWBT

PARTIES FILING INITIAL AND REPLY COMMENTS, CC DOCKET NO. 96-45

Initial comments

<u>Commenter</u>	<u>Abbreviation</u>
Association of American Medical Colleges	AAMC
Ad Hoc Telecommunications Users Committee	Ad Hoc
Aerial Communications, Inc.	Aerial

American Federation of Teachers	AFT
American Hospital Association	AHA
AirTouch Communications, Inc.	AirTouch
AirTouch Communications, Inc. -- Errata	AirTouch
American Library Association	ALA
Alabama Department of Public Health, Public Health Area III	
Alabama Department of Public Health	
Alabama Public Service Commission	Alabama PSC
Alaska Public Utilities Commission	Alaska PUC
Alliance for Public Technology	
Alliance for Community Media	
Alliance for Distance Education in California	Alliance for Distance Education
ALLTEL Telephone Services Corporation	ALLTEL
Alpena General Hospital	
Association for Local Telecommunications Services	ALTS
American Telemedicine Association	American Telemedicine
Ameritech	
AMSC Subsidiary Corp.	AMSC
America Online	AOL
American Personal Communications	APC
American Public Health Association	APHA
American Public Power Association	APPA
Apple Computer, Inc.	Apple
Association of America's Public Television Stations and Public Broadcasting Service	APTS/PBS
Alaska Telephone Association -- Ex-Parte	ATA
Arch Communications Group, Inc.	Arch
Archdiocese of New York	
US Public Policy Office for the Association for Computing Machinery	Ass'n for Computing
Association of State and Territorial Health Officials	ASTHO
AT&T Corp.	AT&T
Bell Atlantic -NYNEX Mobile	BANM
Association of the Bar of New York Administrative Law Committee	Bar of New York
Bell Atlantic	
BellSouth Corporation and Telecommunications, Inc.	BellSouth
Benton Foundation & the Center for Strategic Communications	Benton
Broadband PCS Alliance of PCIA	Broadband PCS Alliance
Brooklyn Public Library	
Business Software Alliance	
California Department of Consumer Affairs	
State of California and the California	

Public Utilities Commission	California PUC
California Small Business Association	California SBA
Cathey, Hutton and Associates	Cathey, Hutton
US Catholic Conference	Catholic Conference
National Coalition for the Homeless,	
Washington Legal Clinic for the Homeless,	
American Women's Roundtable,	
Center for Media Education,	
Consumer Action,	
Fifth Street Connection,	
Heartland Alliance for Human Needs and Human Rights,	
Interstate Migrant Educators,	
Marcia Zashin,	
Education Consultant to Cleveland Public Schools and Project Act,	
Migrant Legal Action Program,	
Council for Education Development and Research	CEDR
Celpage, Inc	Celpage
Cincinnati Bell Telephone Co.	Cincinnati Bell
Citizens Utilities Company	Citizens Utilities
Commonwealth of the Northern Mariana Islands	CNMI
Colorado Library, Education & Healthcare Telecommunications	
Coalition	Colorado LEHTC
Commercial Internet Exchange Association	Commercial Internet Exchange
American Association of Community Colleges	Community Colleges
Competitive Telecommunications Association	CompTel
Comsat Corporation	Comsat
Cox Communications, Inc.	Cox
Competition Policy Institute	CPI
Citizens for a Sound Economy Foundation	CSE Foundation
Cellular Telecommunications Industry Association	CTIA
Cylink Corporation	Cylink
Office of the People's Counsel for the District of Columbia	DC OPC
Public Service Commission of the District of Columbia	DC PSC
Delaware Public Service Commission	Delaware PSC
Dickinson Public Schools	
DIRECTV, Inc. and Hughes Communications Galaxy, Inc.	DIRECTV
Eastern Montana Telemedicine Network	
Edgemont Neighborhood Coalition	Edgemont
Educations and Library Networks Coalition	EDLINC
American Association of Educational Service Agencies	Educational Service Agencies
Electronic Communications for Rural Health Depts.	
Evans Telephone Co.	Evans Tel. Co.
Humboldt Telephone Co.,	
Kerman telephone Co.,	

Oregon-Idaho Utilities Inc.,	
Pinnacles Telephone Co.,	
The Ponderosa Telephone Co.,	
The Siskiyou Telephone Co.,	
The Volcano Telephone Co.,	
Excel Telecommunications, Inc.	EXCEL
Florida Department of Management Services	
Florida Public Service Commission	Florida PSC
Florida Public Service Commission -- Ex-Parte	Florida PSC
Ford County Health Department	
Fred Williamson & Associates, Inc.	Fred Williamson
Frontier Telemedicine	
Frontier Corp.	Frontier
General Communications, Inc.	GCI
GE American Communications, Inc.	GE Americom
Consumers' Utility Counsel Division,	
Georgia Governors' Office	Georgia Consumer's Counsel
Georgia Department of Administrative Services	
Governor of Guam	
Grant County Health Department	
Gray County Health Department	
Council of the Great City Schools	Great City Schools
General Services Administration	GSA
GTE	
Guam Telephone Authority	Guam Tel. Authority
GVNW, Inc./Management	GVNW
Harris, Skrivan Associates	Harris
Harvey County Health Department	
U.S. Department of Health and Human Services	HHS
High Plains Rural Health Network	High Plains RHN
ICORE, Inc.	ICORE
Illinois State Board of Education	Illinois Board of Education
Illinois Commerce Commission	Illinois CC
Illinois Department of Public Health	Illinois DPH
Illinois State Library	
Integrated Media Conferencing Network	
Interactive Services Association	Interactive Services Ass'n
Iowa Utilities Board	
iSCAN, L.P.	iSCAN
Information Technology Association of America	ITAA
ITCs, Inc.	ITC
Information Technology Industry Council	ITI
IXC Communications, Inc.	IXC Communications
John Staurulakis, Inc.	John Staurulakis

Juno Online Services, L.P.	Juno Online
Kansas Corporation Commission	Kansas CC
Kansas Hospital Association	
Kentucky Public Service Commission	Kentucky PSC
Keystone Communications Corporation	Keystone Communications
Kit Carson County Memorial Hospital	
LCI International Telecom Corp.	LCI
Lower Colorado River Authority	LCRA
Livingston County Public Health Department	
Marquette County Health Department	
Maryland Public Service Commission	Maryland PSC
Massachusetts Department of Education	Massachusetts DOE
Massachusetts Board of Library Commissioners	MassLibrary
Maury Regional Hospital Teleradiology and Hospital Software Integration	Maury Regional Hospital
MCI	
Jennie M. Melham Memorial Medical Center, Inc.	Melham Medical Center
Metricom, Inc.	Metricom
MFS Communications Company, Inc.	MFS
Mid-Nebraska Telemedicine Network	
Minnesota Independent Coalition	Minnesota Indep. Coalition
Mississippi State Department of Health	Mississippi Dept. of Health
Mississippi Council for Education Technology & Mississippi Library Commission	Mississippi
Missouri Public Service Commission	Missouri PSC
Mitchell County Health Dept.	
Mountaineer Doctor TeleVision	Mountaineer Doctor TV
National Association of County & City Health Officials	NACCHO
National Association of the Deaf	NAD
National Association of State Telecom. Directors	NASTD
National Association of State Utility Consumer Advocates	NASUCA
National Black Caucus of State Legislators	Nat'l Black Caucus
National Urban Coalition	
US National Commission on Libraries & Information Science	NCLIS
National Cable Television Association	NCTA
Nebraska Association of Hospitals & Health Systems	Nebraska Hospitals
Nebraska Telemedicine	
National Emergency Number Association	NENA
National Urban Coalition	
NetAction	
Utility Consumer Action Network	
Community Technology Centers' Network	
CHALK	

Netscape Communications Corporation	Netscape
New Jersey Division of Ratepayer Advocate	New Jersey Advocate
New York State Department of Education	New York DOE
New York State Department of Public Service	New York DPS
New York Public Library	
Nextel Communications, Inc.	Nextel
Northern Telecommunications	NorTel
North Dakota Department of Health	North Dakota DOH
North Dakota Public Service Commission	North Dakota PSC
North Dakota State Library	
North Dakota Telehealth Service Providers	
Northern Tier	
Norton County Health Department	
NRPT Communications	NRPT
National Telecommunications and Information Administration	NTIA
American College of Nurse Practitioners	Nurse Practitioners
Nynex	NYNEX
Ohio Department of Education	Ohio DOE
Public Utilities Commission of Ohio	Ohio PUC
Oracle Corporation	Oracle
Oregon Public Education Network	
Oregon Public Utility Commission	Oregon PUC
Orion Atlantic	
Osage County Health Department	
Osborne County Health Department	
Owen J. Roberts School District	
PACE Telecommunications Consortium	PACE
Pacific Telesis Group	PacTel
PageMart, Inc.	PageMart
Paging Network, Inc.	PageNet
PanAmSat Corporation	PanAmSat
Panhandle Health District I	
Personal Communications Industry Association	PCIA
Personal Communications Industry Association -- Errata	PCIA
Pennsylvania Library Association	Pennsylvania Library Ass'n
People for the American Way	People For
Media Access Project,	
Alliance for Communications Democracy,	
Alliance for Community Media,	
Benton Foundation,	
Center for Media Education,	
League of United Latin American Systems,	
Minority Media and Telecommunications Council,	

National Association for the Advancement of Colored People,	
National Council of LaRaza,	
National Urban League,	
Rainbow Coalition	
Phillips County Health Department	
Plains Health Telemedicine Network	Plains Health Telemedicine
Paging and Narrowband PCS Alliance of the PCIA	PNPA
Pottawatomie County Health Department	
Public Advocates, Inc.	Public Advocates
Puerto Rico Telephone Company	Puerto Rico Tel. Co.
Rural Emergency Medical Education Consortium	REMEC
Richard Roth	
Robert L . Lock, Jr.	
Roseville Telephone Company	Roseville Tel. Co.
RT Communications, Inc.	RT
Rural Telephone Coalition	RTC
Rural Alliance	
National Rural Electric Cooperative Association	Rural Electric Coop.
Rural Wisconsin Health Cooperative	
Rural Utilities Service	RUS
Russell County Health Department	
Chief Counsel for Advocacy of the	
US Small Business Administration	SBA
Chief Counsel for Advocacy of the	
US Small Business Administration -- ERRATA	SBA
SBC Communications, Inc.	SBC
Seattle Department of Administrative Services	Seattle
Sheridan County Public Health Department	Sheridan County PHD
Silver Star Telephone Company	Silver Star Tel. Co.
Southern New England Telephone Co.	SNET
South Carolina Department of Education and	
Budget & Control Board	South Carolina
Southern Adirondak Library System	
Southern Illinois Healthcare	
Sprint Spectrum L.P.	Sprint PCS
Sprint Corporation	Sprint
Saint Alexius Medical Center	St. Alexius
Stanton County Health Department	
TCA, Inc.-Telecommunications Consultants	TCA
Tele-Communications, Inc.	TCI
TDS Telecommunications and Century Telephone	TDS Telecom
TDS Telecommunications and Century Telephone -- Errata	TDS Telecom
Telco Communications Group, Inc.	Telco
Teleport Communications Group, Inc.	Teleport

Public Utility Commission of Texas	Texas PUC
Time Warner Communications Holdings, Inc.	Time Warner
Telecommunications Resellers Association	TRA
Tularosa Basin Telephone	Tularosa Basin Tel.
Utility Reform Network	TURN
U S West, Inc.	U S WEST
United Cerebral Palsy Association	United Cerebral Palsy Ass'n
Office of Communication of the United Church of Christ	United Church of Christ
United Health Services	
United Utilities, Inc.	United Utilities
Universal Service Alliance	
University of Cincinnati Medical Center Academic Information Technology and Libraries	Univ. of Cin. Medical Center
University of Kansas School of Nursing	Univ. of Kansas School of Nursing
University of Minnesota	Univ. of Minnesota
University of Nebraska Medical Center	Univ. of Nebraska Med. Ctr.
University of Nevada School of Medicine	
National Urban League, Inc.	Urban League
United States Telephone Association	USTA
Utah Public Service Commission	Utah PSC
UTC, the Telecommunications Association	UTC
Vanguard Cellular Systems, Inc.	Vanguard
Vermont Public Service Board	Vermont PSB
Virginia's Rural Telephone Co's	Virginia's Rural
Washington State Enhanced 911 Program	Washington 911
Washington State Library	Washington Library
Washington State Rural Development Council	Washington RDC
Washington State Superintendent of Public Instruction	Washington SPI
Washington Utilities and Transportation Commission	Washington UTC
Waubonsee Community College	
West Virginia Consumer Advocate	
Western Alliance	
WinStar Communications, Inc.	WinStar
WorldCom, Inc.	WorldCom
Wyoming Medical Center	Wyoming Telemedicine Proj.
Wyoming Public Service Commission	WPSC

Reply comments

Commenter

Acadia-St. Landry Hospital
America's Carriers Telecommunications Ass'n
Ad Hoc Telecommunications Users Committee

Abbreviation

ACTA
Ad Hoc

American Federation of Teachers	AFT
American Hospital Ass'n	AHA
AirTouch Communications, Inc.	AirTouch
American Library Association	ALA
Alaska Telemedicine Project	
Aliant Communications Co.	Aliant
ALLTEL Telephone Services Corporation	ALLTEL
Association for Local Telecommunications Services	ALTS
American Medical Informatics Association	
Ameritech	
America Online	AOL
American Personal Communications	APC
American Public Power Ass'n	APPA
Apple Computer, Inc.	Apple
Arch Communications Group, Inc.	Arch
Arizona Telemedicine Program Link	Arizona Telemedicine
Arkadelphia Baptist Medical Center	
Arlington Municipal Hospital TeleMedicine	Arlington Municipal Hospital
AT&T Corp.	AT&T
Atlanta Board of Education	
Bell Atlantic and NYNEX	BANX
Bassett Healthcare Telemedicine Network	Bassett Healthcare
BellSouth Corporation and Telecommunications, Inc.	BellSouth
Benton Foundation & the Center for Strategic Communications	Benton
Business Software Alliance	
California Department of Consumer Affairs	
California and the Public Utilities Commission	California PUC
California Small Business Association	California SBA
Celpage, Inc.	Celpage
Centennial Cellular Corp.	Centennial
Charles S. Robb	
City of Chicago	Chicago
Citizens Utilities Company	Citizens Utilities
Resident Representative from CNMI to US	CNMI Representative
Northern Mariana Islands	CNMI
Colorado Library, Education & Healthcare Telecommunications Coalition	Colorado LEHTC
Colorado Public Utilities Commission	Colorado PUC
Colorado Telehealth	Colorado Telehealth
Commercial Internet Exchange Association	Commercial Internet Exchange
Commercial Internet Exchange Association -- ERRATA	Commercial Internet Exchange
American Association of Community Colleges	Community Colleges
Conejos County Hospital	

Consumer Action Network	Consumer Action
Cox Communications, Inc.	Cox
Competition Policy Institute	CPI
Cellular Telecommunications Industry Association	CTIA
Communications Workers of America	CWA
Dakota Telemedicine Systems	
Decatur County Hospital Healthnet Works	Decatur County Hospital
Eastern Montana TeleMedicine Network	Eastern Montana TeleMedicine
Educations and Library Networks Coalition	EDLINC
Evans Telephone Co.	Evans Tel. Co.
Humboldt Telephone Co.,	
Kerman telephone Co.,	
Oregon-Idaho Utilities, Inc.	
Pinnacles Telephone Co.,	
The Ponderosa Telephone Co.,	
Siskiyou Telephone Co.,	
The Volcano Telephone Co.	
Florida Public Service Commission	Florida PSC
Fort Frye Local School District	
General Communications, Inc.	GCI
GE American Communications, Inc.	GE Americom
Georgia Public Service Commission	Georgia PSC
General Instrument Corporation	GI
Council of the Great City Schools	Great City Schools
General Services Administration	GSA
GTE	GTE
High Plains Rural Health Network	High Plains RHN
U.S. Department of the Interior	Interior
ITCs, Inc. -- ERRATA	ITC
ITCs, Inc.	ITC
IXC Communications, Inc.	IXC Communications
University of Kentucky College of Medicine	Kentucky TeleCare
KMC Telecom, Inc.	KMC
KU Medical Center	KU Medical Center
La Crosse Lutheran Hospital	
LBJ Tropical Medical Center	
Low Country General Hospital	
Lufkin-Conroe Telephone Exchange, Inc.	Lufkin-Conroe
The State of Maine Public Utilities Commission	Maine PUC
The State of Montana Public Service Commission,	
The State of Nebraska Public Service Commission,	
The State of New Hampshire Public Utilities Commission,	
The State of New Mexico State Corporation Commission,	
The State of Utah Public Service Commission,	

The State of Vermont Department of Public Service and Public Service Board, Public Service Commission of West Virginia	
Upper Peninsula Telemedicine Network	Marquette General Hospital
Maryland PSC	
MCI	MCI
MFS Communications Company, Inc.	MFS
Building an Integrated Patient Information System	Mid-Michigan Medical Center
Montana REACH	
Motorola, Inc.	Motorola
National Cable Television Ass'n	NCTA
Netscape Communications Corporation	Netscape
New York State Department of Public Service	New York DPS
Friends of the National Library of Medicine	NLM
North Idaho Community Education and Health Information Network	North Idaho CEHIN
North Mississippi Health Services	
North Tonawanda City School District Board of Education	North Tonawanda School Dist.
National Telecommunications and Information Administration	NTIA
Public Utilities Commission of Ohio	Ohio PUC
Orion Atlantic	
Pacific Telesis Group	PacTel
PageMart, Inc.	PageMart
Paging Network, Inc.	PageNet
Personal Communications Industry Association	PCIA
Puerto Rico Telephone Company	Puerto Rico Tel. Co.
Rock Hill Telephone Co.	Rock Hill Tel. Co.
Rural Telephone Coalition	RTC
National Rural Telecom Association	
National Telephone Cooperative Association	
Organization for the Promotion and Advancement of Small Telecommunications Companies	
Rural Alabama Health Alliance Distance Learning/ Medical Link Grant	Rural Alabama Health
Alliance	
National Rural Health Association	Rural Health Ass'n
Rural Utilities Service	RUS
Acadia-St. Landry Hospital,	
Arizona Telemedicine Program Link,	Arizona Telemedicine
Arkadelphia Baptist Medical Center,	
Arlington Municipal Hospital TeleMedicine,	Arlington Municipal Hospital
Bassett Healthcare Telemedicine Network,	Bassett Healthcare
Colorado Telehealth,	
Conejos County Hospital,	
Dakota Telemedicine Systems,	

Decatur County Hospital Healthnet Works, Eastern Montana TeleMedicine Network, High Plains Rural Health Network, KU Medical Center, University of Kentucky College of Medicine, LBJ Tropical Medical Center, La Crosse Lutheran Hospital, Low Country General Hospital, Upper Peninsula Telemedicine Network, Building an Integrated Patient Information System, Montana REACH, National Telecommunications and Information Administration, North Idaho Community Education & Health Network, North Mississippi Health Services, Rural Alabama Health Alliance Distance Learning, National Rural Health Association, Northeast Louisiana Health Network Teleradiology Link, Twin Lakes Regional Medical Center, University of Arkansas Rural MedLink, Rural Pennsylvania Telemedicine Network, Telemedicine for Rural South Carolina	Decatur County Hospital Eastern Montana Telemedicine
U.S. Small Business Administration SBC Communications, Inc. Scott & White Small Cable Business Association (Reg. Flex) Small Cable Business Association Sprint Spectrum L.P. Sprint Corporation Northeast Louisiana Health Network Teleradiology Link TDS Telecommunications and Century Telephone Telco Communications Group, Inc. Teleport Communications Group, Inc. Time Warner Communications Holdings, Inc. Telecommunications Resellers Association Twin Lakes Regional Medical Center U S West, Inc. Universal Service Alliance University of Arkansas Rural MedLink University of Kentucky Center for Rural Health Rural Pennsylvania Telemedicine Network Center Telemedicine for Rural South Carolina Med. United States Telephone Ass'n	Kentucky Telecare Marquette General Hospital Mid-Michigan Medical Center NTIA North Idaho CEHIN Rural Alabama HealthAlliance Rural Health Ass'n St. Francis Medical Center University of Arkansas Univ. Pittsburgh Med Ctr Univ. of SC School of Med SBA SBC Small Cable II Small Cable Sprint PCS Sprint St. Francis Medical Center TDS Telecom Telco Teleport Time Warner TRA U S WEST Univ. Service Alliance Univ. of Arkansas Univ. of Pittsburgh Medical Univ. of S. Carolina School of USTA

UTC, the Telecommunications Ass'n
Vanderbilt University
Vanguard Cellular Systems, Inc.
WorldCom, Inc.

UTC
Vanderbilt
Vanguard
WorldCom

APPENDIX B - Final Rules

AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS

1. Part 54 of Title 47 of the Code of Federal Regulations (CFR) is amended as follows:

PART 54--UNIVERSAL SERVICE

2. Section 54.507(e) is amended by removing the word "administrator" and adding, in its place, the word "Administrator".

3. Section 54.509(a) is amended by removing the word "administrator" and adding, in its place, the word "Administrator".

4. Section 54.701 is amended by removing all references to "Temporary Administrator".

5. Section 54.5 is amended by revising the definition of "Administrator" and adding the following definitions:

Administrator. The term "Administrator" shall refer to the National Exchange Carrier Association, Inc. until the date that an independent subsidiary of the National Exchange Carrier Association, Inc. is incorporated and has commenced the administration of the universal service support mechanisms. On that date and until the permanent Administrator has commenced the permanent administration of the universal service support mechanisms, the term "Administrator" shall refer to the independent subsidiary established by the National Exchange Carrier Association, Inc. for the purpose of temporarily administering the portions of the universal service support mechanisms described in § 69.616. On the date that the entity selected to permanently administer the universal service support mechanisms commences operations and thereafter, the term "Administrator" shall refer to such entity.

Contributor. The term "contributor" shall refer to an entity required to contribute to the universal service support mechanisms pursuant to § 54.703.

High Cost and Low Income Committee. The term "High Cost and Low Income Committee" shall refer to a committee of the Board of Directors of the Administrator's independent subsidiary that will have the power and authority to bind the independent subsidiary's Board of Directors on issues relating to the administration of the high cost and low-income support mechanisms, as described in § 69.615.

Rural Health Care Corporation. The term "Rural Health Care Corporation" shall refer to the corporation created pursuant to § 69.617 that shall administer specified portions of the universal service support mechanisms, as described in § 69.618.

Schools and Libraries Corporation. The term "Schools and Libraries Corporation" shall refer

to the corporation created pursuant to § 69.617 that shall administer specified portions of the universal service support mechanisms. as described in § 69.619.

6. Section 54.504 is amended by revising the first sentence of paragraph (b)(1), revising paragraph (b)(2)(vii), and revising the first sentence of paragraph (b)(3) to read as follows:

* * * * *

(b)(1) Schools, libraries, and consortia, including those entities wishing to receive discounts for eligible services under this subpart, shall submit requests for services to the Schools and Libraries Corporation. * * *

* * * * *

(b)(2)(vii) the school, library, or consortium including those entities has a technology plan that has been certified by its state, the Schools and Libraries Corporation, or an independent entity approved by the Commission.

(3) After posting a description of services from a school, library, or consortium of these entities on the school and library website, the Schools and Libraries Corporation shall send confirmation of the posting to the entity requesting services. That entity shall then wait at least four weeks from the date on which its description of services is posted on the website before making commitments with the selected providers of services. The confirmation from the Schools and Libraries Corporation shall include the date after which the requestor may sign a contract with its chosen provider(s).

* * * * *

7. Section 54.505 is amended by revising paragraphs (b)(3) and (c) to read as follows:

* * * * *

(b)(3) The Schools and Libraries Corporation shall classify schools and libraries as "urban" or "rural" based on location in an urban or rural area, according to the following designations.

* * * * *

(c) *Matrix.* The Schools and Libraries Corporation shall use the following matrix to set a discount rate to be applied to eligible interstate services purchased by eligible schools, school districts, libraries, or library consortia based on the institution's level of poverty and location in an "urban" or "rural" area.

* * * * *

8. Section 54.507 is amended by revising the first sentence of paragraph (a), the second sentence of paragraph (c), paragraph (f)(1), and paragraph (f)(4) to read as follows:

(a) *Amount of the Annual Cap.* The annual cap on federal universal service support for schools and libraries shall be \$2.25 billion per funding year, and all funding authority for a given funding year that is unused shall be carried forward into subsequent years for use in accordance with demand, with two exceptions. * * *

* * * * *

(c) * * * The Schools and Libraries Corporation shall maintain a running tally of the funds already committed for the existing funding year on the school and library website.

* * * * *

(f)(1) The Schools and Libraries Corporation shall post a message on the school and library website, notify the Commission, and take reasonable steps to notify the educational and library communities that commitments for the remaining \$250 million of support will only be made available to the most economically disadvantaged schools and libraries (those in the two most disadvantaged categories) for the next 30 days or the remainder of the funding year, whichever is shorter.

* * * * *

(f)(4) The Administrator shall notify the Schools and Libraries Corporation of any funds still remaining after all requests submitted by schools and libraries described in paragraphs (f)(2) and (f)(3) of this section during the 30-day period have been met. The Schools and Libraries Corporation shall direct the Administrator to allocate the remaining available funds to all other eligible schools and libraries in the order in which their requests have been received by the Schools and Libraries Corporation, until the \$250 million is exhausted or the funding year ends.

9. Section 54.509 is amended by revising paragraphs (b) and (c) to read as follows:

* * * * *

(b) *Reduction in Percentage Discounts.* If the estimates schools and libraries make of their future funding needs lead the Schools and Libraries Corporation to predict that total funding requests for a funding year will exceed the available funding, the Schools and Libraries Corporation shall calculate the percentage reduction to all schools and libraries, except those in the two most disadvantaged categories, necessary to permit all requests in the next funding year to be fully funded.

(c) *Remaining Funds.* If funds remain under the cap at the end of the funding year in which discounts have been reduced below those set in the matrices above, the Administrator shall inform the Schools and Libraries Corporation of such remaining funds. The Schools and Libraries Corporation then shall consult with the Commission to establish the best way to

distribute those funds.

10. Section 54.516 is amended by revising paragraph (b) to read as follows:

* * * * *

(b) *Production of Records.* Schools and libraries shall produce such records at the request of any auditor appointed by a state education department, the Schools and Libraries Corporation, or any state or federal agency with jurisdiction.

* * * * *

11. Section 54.603 is amended by revising paragraph (b)(2), the first sentence of paragraph (b)(3), paragraph (b)(4), and paragraph (b)(5) to read as follows:

* * * * *

(b)(2) The Rural Health Care Corporation shall post each request for eligible services that it receives from an eligible health care provider on the corporation's website designated for this purpose.

(b)(3) After posting a description of services from a health care provider on the website, the Rural Health Care Corporation shall send confirmation of the posting to the entity requesting services. * * *

(b)(4) After selecting a telecommunications carrier, the health care provider shall certify to the Rural Health Care Corporation that the provider is selecting the most cost-effective method of providing the requested service or services, where the most cost-effective method of providing a service is defined as the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services. The health care provider shall submit to the Rural Health Care Corporation paper copies of the responses or bids received in response to the requested services.

(b)(5) The confirmation from the Rural Health Care Corporation shall include the date after which the requester may sign a contract with its chosen telecommunications carrier(s).

12. Section 54.609 is amended by revising the second sentence of paragraph (b) to read as follows:

* * * * *

(b) * * * Absent documentation justifying the amount of universal service support requested for health care providers participating in a consortium, the Rural Health Care Corporation shall not allow telecommunications carriers to offset, or receive reimbursement for, the amount eligible for universal service support.

13. Sections 54.709-54.715 are added to read as follows:

§ 54.709 Computations of required contributions to universal service support mechanisms.

(a) Contributions to the universal service support mechanisms shall be based on contributors' end-user telecommunications revenues and contribution factors determined quarterly by the Administrator.

(1) For funding the schools and libraries and rural health care programs, the subject revenues will be contributors' interstate, intrastate, and international revenues derived from domestic end users for telecommunications or telecommunications services. For funding the high cost and low-income programs, the subject revenues will be contributors' interstate and international revenues derived from domestic end users for telecommunications or telecommunications services.

(2) The quarterly universal service contribution factors shall be based on the ratio of total projected quarterly expenses of the universal service support programs to total end-user telecommunications revenues. The Commission shall determine two contribution factors, one of which shall be applied to interstate and international end-user telecommunications revenues and the other of which shall be applied to interstate, intrastate, and international end-user telecommunications revenues. The Commission shall approve the Administrator's, the Schools and Libraries Corporation's, and the Rural Health Care Corporation's quarterly projected costs of universal service support programs, taking into account demand for support and administrative expenses. The total subject revenues shall be compiled by the Administrator based on information contained in the Universal Service Worksheets described in § 54.711(a).

(3) Total projected expenses for universal service support programs for each quarter must be approved by the Commission before they are used to calculate the quarterly contribution factors and individual contributions. For each quarter, the High Cost and Low Income Committee or the permanent Administrator once the permanent administrator is chosen and the Schools and Libraries and Rural Health Care Corporations must submit their projections of demand for the high cost and low-income programs, the schools and libraries program, and rural health care program, respectively, and the basis for those projections, to the Commission and the Common Carrier Bureau at least 60 calendar days prior to the start of that quarter. For each quarter, the Administrator and the Schools and Libraries and Rural Health Care Corporations must submit their projections of administrative expenses for the high cost and low-income programs, the schools and libraries program and the rural health care program, respectively, and the basis for those projections to the Commission and the Common Carrier Bureau at least 60 calendar days prior to the start of that quarter. The projections of demand and administrative expenses and the contribution factors shall be announced by the Commission in a Public Notice published in the Federal

Register and shall be made available on the Commission's website. The Commission reserves the right to set projections of demand and administrative expenses at amounts that the Commission determines will serve the public interest at any time within the 14-day period following publication of the Commission's Public Notice. If the Commission takes no action within 14 days of the date of the Public Notice announcing the projections of demand and administrative expenses, the projections of demand and administrative expenses, and contribution factors shall be deemed approved by the Commission. Once the projections are approved, the Administrator shall apply the quarterly contribution factors to determine individual contributions.

(4) The Administrator shall bill contributors and collect contributions on a quarterly basis.

(b) If the contributions received by the Administrator in a quarter exceed the amount of universal service support program contributions and administrative costs for that quarter, the excess payments will be carried forward to the following quarter. The contribution factors for the following quarter will take into consideration the projected costs of the support mechanisms for that quarter and the excess contributions carried over from the previous quarter.

(c) If the contributions received by the Administrator in a quarter are inadequate to meet the amount of universal service support program payments and administrative costs for that quarter, the Administrator shall request authority from the Commission to borrow funds commercially, with such debt secured by future contributions. Subsequent contribution factors will take into consideration the projected costs of the support mechanisms and the additional costs associated with borrowing funds.

(d) If a contributor fails to file a Universal Service Worksheet by the date on which it is due, the Administrator shall bill that contributor based on whatever relevant data the Administrator has available, including, but not limited to, the number of lines presubscribed to the contributor and data from previous years, taking into consideration any estimated changes in such data.

§ 54.711 Contributor reporting requirements.

(a) Contributions shall be calculated and filed in accordance with the Universal Service Worksheet. The Universal Service Worksheet sets forth information that the contributor must submit to the Administrator on a semi-annual basis. The Commission shall announce by Public Notice published in the Federal Register and on its website the manner of payment and dates by which payments must be made. An officer of the contributor must certify to the truth and accuracy of the Universal Service Worksheet, and the Commission or the Administrator may verify any information contained in the Universal Service Worksheet at the discretion of the Commission. Inaccurate or untruthful information contained in the Universal Service Worksheet may lead to prosecution under the criminal provisions of Title

18 of the United States Code. The Administrator shall advise the Commission of any enforcement issues that arise and provide any suggested response.

(b) The Commission shall have access to all data reported to the Administrator, Rural Health Care Corporation, and Schools and Libraries Corporation. Contributors may make requests for Commission nondisclosure of company-specific information under § 0.459 at the time that the subject data are submitted to the Administrator. The Commission shall make all decisions regarding nondisclosure of company-specific information. The Administrator, Rural Health Care Corporation, and Schools and Libraries Corporation shall keep confidential all data obtained from contributors, shall not use such data except for purposes of administering the universal service support programs, and shall not disclose such data in company-specific form unless directed to do so by the Commission.

(c) The Bureau may waive, reduce, or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the universal service support mechanisms.

§ 54.713 Contributors' failure to report or to contribute.

A contributor that fails to file a Universal Service Worksheet and subsequently is billed by the Administrator shall pay the amount for which it is billed. The Administrator may bill a contributor a separate assessment for reasonable costs incurred because of that contributor's filing of an untruthful or inaccurate Universal Service Worksheet, failure to file the Universal Service Worksheet, or late payment of contributions. Failure to file the Universal Service Worksheet or to submit required quarterly contributions may subject the contributor to the enforcement provisions of the Act and any other applicable law. The Administrator shall advise the Commission of any enforcement issues that arise and provide any suggested response. Once a contributor complies with the Universal Service Worksheet filing requirements, the Administrator may refund any overpayments made by the contributor, less any fees, interest, or costs.

§ 54.715 Administrator's functions

The Administrator shall have the same functions as the independent subsidiary set out in § 69.616 of the Commission's rules.

14. Part 69 of Title 47 of the CFR is amended as follows:

PART 69--ACCESS CHARGES

15. The authority citation for part 69 is revised to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 220, 403, 254, 48 Stat. 1066, 1070, 1072, 1077,

1094, as amended, 47 U.S.C. §§ 154, 201, 202, 203, 205, 218, 220, 254, 403.

16. Section 69.600 is added to include the following definitions:

High Cost and Low Income Committee. The term "High Cost and Low Income Committee" shall refer to a committee of the Board of Directors of the Administrator's independent subsidiary that will have the power and authority to bind the independent subsidiary's Board of Directors on issues relating to the administration of the high cost and low-income support mechanisms, as described in § 69.615.

Rural Health Care Corporation. The term "Rural Health Care Corporation" shall refer to the corporation created pursuant to § 69.617 that shall administer specified portions of the universal service support mechanisms, as described in § 69.618.

Schools and Libraries Corporation. The term "Schools and Libraries Corporation" shall refer to the corporation created pursuant to § 69.617 that shall administer specified portions of the universal service support mechanisms, as described in § 69.619.

17. Section 69.603 is amended by deleting paragraph (f) and revising paragraphs (c), (d), and (e) to read as follows:

§ 69.603 Association functions.

* * * * *

(c) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to § 69.613(a), will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer administer the Universal Service charge, including the direct billing to and collection of associated revenues on a monthly basis from interexchange carriers pursuant to § 60.116 and the distribution of these revenues to qualified telephone companies based on their share of expenses assigned to the Universal Service Factor portion of the interstate allocation pursuant to § 36.631. Such functions shall be assumed by the independent subsidiary of the association as provided in § 69.613. Commencing on January 1, 1998, the billing and collection of universal service support for high cost areas shall be performed in a manner consistent with § 54.709.

(d) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to § 69.613, will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer administer the Lifeline Assistance charge, including the direct billing to and collection of associated revenues on a monthly basis from interexchange carriers pursuant to § 69.117, and the distribution of these revenues to qualified telephone companies based on their share of expenses assigned to the Lifeline Assistance Fund pursuant to § 36.741 and of End User Common Line charges associated with the operation of § 69.104(j)-(l). Such functions shall

be assumed by the independent subsidiary of the association as provided in § 69.613. Commencing on January 1, 1998, the billing and collection of Lifeline support shall be performed in a manner consistent with § 54.709.

(e) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to § 69.613, will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer compute, in accordance with §§ 69.105 and 69.612, the mandatory Long Term Support payment of telephone companies that are not association Common Line tariff participants, bill or collect the appropriate amounts on a monthly basis from such telephone companies, or distribute Long Terms Support revenue among association Carrier Common Line tariff participants. Such functions shall be assumed by the independent subsidiary of the association as provided in § 69.613. Commencing on January 1, 1998, the computation, billing, and collection of Long Term Support shall be performed in a manner consistent with § 54.303.

* * * * *

18. Sections 69.613-69.620 are added to read as follows:

* * * * *

§ 69.613 Temporary administrator of universal service support mechanisms.

(a) The association shall establish an independent subsidiary through which the association shall administer temporarily the portions of the universal service support mechanisms described in § 69.616 until the permanent Administrator is established and ready to commence operations. The independent subsidiary shall be incorporated under the laws of Delaware and shall be designated the Universal Service Administrative Company. The association shall submit the independent subsidiary's proposed articles of incorporation, bylaws, and any other documents necessary to incorporate the independent subsidiary to the Commission by August 1, 1997 for review prior to the independent subsidiary's incorporation.

(b) As a condition of its appointment as the temporary Administrator of the universal service support mechanisms, the association shall agree to make available, if the association or its independent subsidiary is not appointed permanent Administrator, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from the independent subsidiary's temporary administration of the universal service support mechanisms, and to make such property available to whomever the Commission directs, free of charge. Such property includes, but is not limited to, databases, processing systems, computer software programs, lists, records, information, or equipment created or purchased and used in the temporary administration of the universal service support mechanisms. The association must specify any property it proposes to exclude from the foregoing types of property based on the existence of such property prior to the effective date of the association's appointment as the temporary Administrator.

(c) As a further condition of its appointment as the temporary Administrator of the universal service support mechanisms, the association and the independent subsidiary must provide services to the Corporations, such as contracting for the services of association or independent subsidiary employees, loans or transfers of assets, upon the request of the Corporations and on reasonable terms.

§ 69.614 Independent subsidiary Board of Directors.

(a) The independent subsidiary described in § 69.613(a) shall have a Board of Directors separate from the association's Board of Directors. Except as expressly permitted, the association's Board of Directors shall be prohibited from participating in the functions of the independent subsidiary.

(b) The independent subsidiary's Board of Directors shall consist of 17 directors:

(1) Three directors shall represent incumbent local exchange carriers, with one director representing the Bell Operating Companies and GTE, one director representing ILECs (other than the Bell Operating Companies) with annual operating revenues in excess of \$40 million, and one director representing ILECs (other than the Bell Operating Companies) with annual operating revenues of \$40 million or less;

(2) Two directors shall represent interexchange carriers, with one director representing interexchange carriers with more than \$3 billion in annual operating revenues and one director representing interexchange carriers with annual operating revenues of \$3 billion or less;

(3) One director shall represent commercial mobile radio service (CMRS) providers;

(4) One director shall represent competitive local exchange carriers;

(5) One director shall represent cable operators;

(6) One director shall represent information service providers;

(7) Three directors shall represent schools that are eligible to receive discounts pursuant to § 54.501;

(8) One director shall represent libraries that are eligible to receive discounts pursuant to § 54.501;

(9) One director shall represent rural health care providers that are eligible to receive supported services pursuant to § 54.601;

- (10) One director shall represent low-income consumers;
- (11) One director shall represent state telecommunications regulators; and
- (12) One director shall represent state consumer advocates.

(c) The industry and non-industry groups that will be represented on the independent subsidiary's Board of Directors as specified in § 69.614(b)(1)-(12) shall nominate by consensus the independent subsidiary's directors. Each of these industry and non-industry groups shall submit the name of its nominee for a seat on the independent subsidiary's Board of Directors, along with relevant professional and biographical information about the nominee, to the Chairman of the Federal Communications Commission within 14 calendar days of the publication of these rules in the Federal Register. Only members of the industry or non-industry group that a Board member will represent may submit a nomination for that position.

(d) The Chairman of the Federal Communications Commission shall review the nominations submitted by industry and non-industry groups and shall select the independent subsidiary's Board of Directors. If an industry or non-industry group does not reach consensus on a nominee or fails to submit a nomination for a position on the independent subsidiary's Board of Directors, the Chairman of the Federal Communications Commission shall select an individual to represent such group on the independent subsidiary's Board of Directors.

(e) The directors on the independent subsidiary's Board shall be appointed for two-year terms and may be reappointed for subsequent terms pursuant to the initial nomination and appointment process described in subsection (d). If a Board member vacates his or her seat prior to the completion of his or her term, the independent subsidiary will notify the Common Carrier Bureau of such vacancy, and a successor will be chosen pursuant to the initial nomination and appointment process described in subsection (d).

(f) The independent subsidiary's Board of Directors shall convene its first meeting within 14 calendar days of the appointment of the directors to the independent subsidiary's Board.

(g) All meetings of the independent subsidiary's Board of Directors shall be open to the public and held in Washington, D.C.

(h) Each member of the independent subsidiary's Board of Directors shall be entitled to receive reimbursement for expenses directly incurred as a result of his or her participation on the independent subsidiary's Board of Directors.

§ 69.615 High Cost and Low Income Committee.

The independent subsidiary's Board of Directors shall require in its bylaws the creation

of a High Cost and Low Income Committee with the power and authority to bind the independent subsidiary's Board of Directors on issues relating to the administration of the high cost and low-income support mechanisms, as specifically delineated in the independent subsidiary's bylaws. The High Cost and Low-Income Committee will consist of ten members: the seven service provider representatives (i.e., the representatives listed in § 69.614(b)(1)-(4)) and the low-income, state consumer advocate, and state telecommunications regulator representatives. In the event that a majority of the members of the Committee is unable to reach a decision, the Chairman of the Committee is authorized to cast an additional vote to resolve the deadlock.

§ 69.616 Independent subsidiary functions.

(a) The independent subsidiary shall be solely responsible for administering the universal service support mechanisms for high-cost areas and low-income consumers, including billing contributors, collecting contributions to the universal service support mechanisms, and disbursing universal service support funds. The independent subsidiary also shall be required to perform any other duties of the Administrator that relate to the billing, collection, and disbursement of funds that are specified elsewhere in the Commission's universal service rules.

(b) With respect to the universal service support mechanisms for schools, libraries, and rural health care providers, the independent subsidiary shall be responsible for billing contributors to the universal service support mechanisms, collecting contributions to the universal service support mechanisms, and disbursing universal service support funds within 20 days following receipt of authorization to disburse such funds from the Schools and Libraries Corporation and Rural Health Care Corporation.

(c) The independent subsidiary may advocate positions before the Commission and its staff only on administrative matters relating to the universal service support mechanisms.

(d) The independent subsidiary shall maintain books of account separate from those of the association. The independent subsidiary's books of account shall be maintained in accordance with generally accepted accounting principles. The independent subsidiary may borrow start-up funds from NECA. Such funds may not be drawn from the Telecommunications Relay Services (TRS) fund or TRS administrative expense accounts.

§ 69.617 Schools and Libraries Corporation and Rural Health Care Corporation.

(a) *Schools and Libraries and Rural Health Care Corporations.* The association shall incorporate two unaffiliated corporations. The two corporations shall be not-for-profit, non-stock corporations incorporated in the state of Delaware. The corporations shall be designated the Schools and Libraries Corporation and the Rural Health Care Corporation. After incorporating the Schools and Libraries Corporation and the Rural Health Care Corporation, the association shall take such steps as are necessary to make the Corporations independent of,

and unaffiliated with, the association and independent subsidiary. The association shall submit to the Commission for approval the proposed articles of incorporation, bylaws, and any documents necessary to incorporate the Schools and Libraries Corporation and Rural Health Care Corporation by August 1, 1997. The Schools and Libraries Corporation and Rural Health Care Corporation should continue to perform their designated functions, as described in §§ 69.618 and 69.619, after the date on which the permanent Administrator is selected and commences operations.

(b) *Schools and Libraries Corporation's Board of Directors.* The Board of Directors of the Schools and Libraries Corporation shall consist of seven directors and will be composed as follows:

(1) The three directors representing eligible schools on the independent subsidiary's Board of Directors also shall serve on the Board of Directors of the Schools and Libraries Corporation;

(2) The director representing eligible libraries on the independent subsidiary's Board of Directors also shall serve on the Board of Directors of the Schools and Libraries Corporation.

(3) One director representing one of the categories of telecommunications service providers on the independent subsidiary's Board of Directors also shall serve on the Schools and Libraries Corporation's Board of Directors. The independent subsidiary's Board of Directors shall select the telecommunications service provider representative who will serve on the Schools and Libraries Corporation's Board of Directors within seven calendar days of the first meeting of the independent subsidiary's Board of Directors;

(4) One independent director who does not represent schools, libraries, or service providers shall be selected by the Chairman of the Federal Communications Commission to serve on the Schools and Libraries Corporation's Board of Directors. The Chairman of the Federal Communications Commission will select such an independent director simultaneously with selection of the independent subsidiary's Board members.

(5) The directors representing schools, libraries, and service providers and the independent director on the Schools and Libraries Corporation's Board of Directors shall submit to the Chairman of the Federal Communications Commission a candidate to serve as the Chief Executive Officer (CEO) of the Schools and Libraries Corporation. The chosen CEO shall serve on the Schools and Libraries Corporation's Board of Directors.

(c) *Rural Health Care Corporation's Board of Directors.* The Board of Directors of the Rural Health Care Corporation shall consist of five directors and will be composed as follows:

(1) The director representing rural health care providers on the independent

subsidiary's Board of Directors also shall serve on the Rural Health Care Corporation's Board of Directors;

(2) An additional director representing rural health care providers also shall serve on the Rural Health Care Corporation's Board of Directors. Interested parties shall submit nominations for the additional director representing rural health care providers simultaneously with submitting nominations for the independent subsidiary's Board of Directors, as described in § 69.614(c). The Chairman of the Federal Communications Commission will select the additional rural health care provider representative simultaneously with the selection of the members of the independent subsidiary's Board of Directors.

(3) One director representing one of the categories of telecommunications service providers on the independent subsidiary's Board of Directors also shall serve on the Rural Health Care Corporation's Board of Directors. The independent subsidiary's Board of Directors shall select the telecommunications service provider representative who will serve on the Rural Health Care Corporation's Board within seven calendar days of the first meeting of the independent subsidiary's Board of Directors;

(4) One independent director who does not represent rural health care providers or service providers shall be selected by the Chairman of the Federal Communications Commission to serve on the Rural Health Care Corporation's Board of Directors. The Chairman will select, simultaneously with selection of the independent subsidiary's Board of Directors, the independent director to serve on the Rural Health Care Corporation's Board of Directors;

(5) The directors representing rural health care providers and service providers and the independent director on the Rural Health Care Corporation's Board of Directors shall submit to the Chairman of the Federal Communications Commission a candidate to serve as the chief executive officer (CEO) of the Rural Health Care Corporation. The chosen CEO shall serve on the Rural Health Care Corporation's Board of Directors.

(d) All of the Board members of the Schools and Libraries Corporation and Rural Health Care Corporation shall be appointed for two-year terms. Directors may be reappointed for subsequent terms pursuant to the appointment process used initially to select the Corporations' Boards of Directors described in § 69.617 (b) and (c). In the event that a director vacates his or her seat prior to the completion of his or her term, the Corporation will notify the Common Carrier Bureau of such vacancy and a successor will be chosen pursuant to the initial nomination and appointment process described in § 69.617(b) and (c). Removal of members from the Board of the Schools and Libraries Corporation or Rural Health Care Corporation may only occur with the approval of the Chairman of the Federal Communications Commission.

(e) All Board of Directors meetings of the Rural Health Care Corporation and the Schools and Libraries Corporation shall be open to the public and held in Washington, D.C.

(f) Each member of the Board of Directors of the Rural Health Care Corporation and Schools and Libraries Corporation shall be entitled to receive reimbursement for expenses directly incurred as a result of his or her participation on such Board of Directors.

§ 69.618 Rural Health Care Corporation functions.

(a) The Rural Health Care Corporation shall perform the following functions as they relate to the support mechanisms for eligible rural health care providers:

(1) administering the application process for rural health care providers, including the dissemination, processing, and review of applications for service from rural health care providers;

(2) creating and maintaining a website on which applications for services will be posted on behalf of rural health care providers;

(3) performing outreach and public education functions;

(4) reviewing bills for services that are submitted by rural health care providers on which service providers designate the amount of universal service support they should receive for services rendered and on which rural health care providers confirm that they have received such services;

(5) monitoring demand for the purpose of determining when the \$400 million cap has been reached in the case of the rural health care providers program;

(6) submitting to the Commission all quarterly projections of demand and administrative expenses, as described in § 54.709(a)(3);

(7) informing the independent subsidiary, as quickly as possible, but no later than 20 days following the Rural Health Care Corporation's receipt of the bills for services, of the amount of universal service support to be disbursed to service providers;

(8) authorizing the performance of audits of rural health care provider beneficiaries of universal service support; and

(9) any other function relating to the administration of the rural health care program that is not specifically assigned to the independent subsidiary.

(b) The Rural Health Care Corporation shall maintain books of account separate from those of the association, the independent subsidiary, and the Schools and Libraries Corporation. The Rural Health Care Corporation's books of account shall be maintained in accordance with generally accepted accounting principles.

(c) The Rural Health Care Corporation may borrow start-up funds from the association or the independent subsidiary, but such funds may not come from the Telecommunications Relay Services (TRS) fund or TRS administrative expense accounts.

(d) The Rural Health Care Corporation shall make available to whomever the Commission directs, free of charge, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from its role in administering the rural health care program, if its participation in administering the rural health care program ends. The Rural Health Care Corporation must specify any property it proposes to exclude from the foregoing types of property based on the existence of such property prior to the incorporation of the Rural Health Care Corporation.

§ 69.619 Schools and Libraries Corporation functions.

(a) The Schools and Libraries Corporation shall perform the following functions as they relate to the support mechanisms for eligible schools and libraries:

(1) administering the application process for schools and libraries including the dissemination, processing, and review of applications for service from schools and libraries;

(2) creating and maintaining a website on which applications for services will be posted on behalf of schools and libraries;

(3) performing outreach and public education functions;

(4) reviewing bills for services that are submitted by schools and libraries and on which service providers designate the amount of universal service support they should receive for services rendered and on which schools and libraries confirm that they have received such services;

(5) monitoring demand for the purpose of determining when the \$2 billion trigger has been reached in the case of the schools and libraries program;

(6) submitting to the Commission all quarterly projections of demand and administrative expenses, as described in § 54.709(a)(3);

(7) informing the independent subsidiary, as quickly as possible, but no later than 20 days following the Schools and Libraries Corporation's receipt of the bills for services, of the amount of universal service support to be disbursed to service providers;

(8) authorizing the performance of audits of schools and libraries beneficiaries of universal service support; and

(9) any other function relating to the administration of the schools and libraries

programs that is not specifically assigned to the independent subsidiary.

(b) The Schools and Libraries Corporation shall implement the rules of priority in accordance with § 54.507(f).

(c) The Schools and Libraries Corporation may review and certify schools' and libraries' technology plans when a state agency has indicated that it will be unable to review such plans within a reasonable time.

(d) The Schools and Libraries Corporation shall classify schools and libraries as urban or rural and use the discount matrix established in § 54.505(c) to set the discount rate to be applied to services purchased by eligible schools and libraries.

(e) The Schools and Libraries Corporation shall maintain books of account separate from those of the association, the independent subsidiary, and the Rural Health Care Corporation. The Schools and Libraries Corporation's books of account shall be maintained in accordance with generally accepted accounting principles.

(f) The Schools and Libraries Corporation may borrow start-up funds from the association or the independent subsidiary, but such funds may not come from the Telecommunications Relay Services (TRS) fund or TRS administrative expense accounts.

(g) The Schools and Libraries Corporation shall make available to whomever the Commission directs, free of charge, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from its role in administering the schools and libraries program, if its participation in administering the schools and libraries program ends. The Schools and Libraries Corporation must specify any property it proposes to exclude from the foregoing types of property based on the existence of such property prior to the incorporation of the Schools and Libraries Corporation.

§ 69.620 Administrative expenses of independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation.

(a) The annual administrative expenses of the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation should be commensurate with the administrative expenses of programs of similar size and may include, but are not limited to, salaries of officers and operations personnel, the costs of borrowing funds, equipment costs, operating expenses, directors' expenses, and costs associated with auditing contributors or support recipients.

(b) The independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall submit to the Commission projected quarterly budgets at least 60 days prior to the start of every quarter. The Commission must approve the projected quarterly budgets before the independent subsidiary disburses funds for administrative expenses to the

Schools and Libraries Corporation and Rural Health Care Corporation. The Schools and Libraries Corporation's and Rural Health Care Corporation's administrative expenses shall be paid from the universal support mechanisms. The administrative expenses of the Schools and Libraries Corporation and Rural Health Care Corporation shall be deducted from their respective programs' annual funding, which is capped at \$2.25 billion in the case of the schools and libraries program, as established in § 54.507, and capped at \$400 million in the case of the rural health care providers program, as established in § 54.623. The Schools and Libraries Corporation and Rural Health Care Corporation shall receive payments for administrative expenses from the permanent Administrator under the same terms as they shall receive payments pursuant to this subsection.

§ 69.621 Audits of independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation.

(a) The independent subsidiary, the Schools and Libraries Corporation, and the Rural Health Care Corporation shall obtain and pay for annual audits conducted by independent auditors to examine their operations and books of account to determine, among other things, whether they are properly administering the universal service support mechanisms to prevent fraud, waste, and abuse:

(1) Before selecting an independent auditor, the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall submit preliminary audit requirements, including the proposed scope of the audits and the extent of compliance and substantive testing, to the Common Carrier Bureau Audit Staff;

(2) The Common Carrier Bureau Audit Staff shall review the preliminary audit requirements to determine whether they are adequate to meet the audit objectives. The Common Carrier Bureau Audit Staff shall prescribe modifications that shall be incorporated into the final audit requirements;

(3) After the audit requirements have been approved by the Common Carrier Bureau Audit Staff, the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation each shall engage within 30 calendar days an independent auditor to conduct the annual audit required by this subsection. In making their selections, the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall not engage any independent auditor who has been involved in designing any of the accounting or reporting systems under review in the audit;

(4) The independent auditors selected by the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation to conduct the annual audits shall develop detailed audit programs based on the final audit requirements and submit them to the Common Carrier Bureau Audit Staff. The Common Carrier Bureau Audit Staff shall review the audit programs and make modifications, as needed, that shall be incorporated into the final audit programs. During the course of the audits, the Common Carrier Bureau Audit

Staff may direct the independent auditors to take any actions necessary to ensure compliance with the audit requirements;

(5) During the course of the audits, the independent auditors shall:

(a) Inform the Common Carrier Bureau Audit Staff of any revisions to the final audit programs or to the scope of the audits;

(b) Notify the Common Carrier Bureau Audit Staff of any meetings with the independent subsidiary, the association, Schools and Libraries Corporation, or Rural Health Care Corporation in which audit findings are discussed;

(c) Submit to the Chief of the Common Carrier Bureau, any accounting or rule interpretations necessary to complete the audit.

(6) Within 60 calendar days after the end of the audit period, but prior to discussing the audit findings with the independent subsidiary, the association, Schools and Libraries Corporation, or Rural Health Care Corporation, the independent auditors shall be instructed to submit drafts of the audit reports to the Common Carrier Bureau Audit Staff;

(7) The Common Carrier Bureau Audit Staff shall review the audit findings and audit workpapers and offer its recommendations concerning the conduct of the audits or the audit findings to the independent auditors. Exceptions of the Common Carrier Bureau Audit Staff to the findings and conclusions of the independent auditors that remain unresolved shall be included in the final audit reports;

(8) Within 15 calendar days after receiving the Common Carrier Bureau Audit Staff's recommendations and making any revisions to the audit reports, the independent auditors shall submit the audit reports to the respective audit subjects for their responses to the audit findings. At this time they must also send copies of their audit findings to the Common Carrier Bureau Audit Staff. The independent auditors shall be provided additional time to perform additional audit work recommended by the Common Carrier Bureau Audit Staff;

(9) Within 30 calendar days after receiving the audit reports, the audit subjects shall respond to the audit findings and send copies of their responses to the Common Carrier Bureau Audit Staff. Any reply that the independent auditors wish to make to the audit subjects' responses shall be sent to the Common Carrier Bureau Audit Staff as well as the audit subjects. The audit subjects' responses and the independent auditors' replies shall be included in the final audit reports;

(10) Within 10 calendar days after receiving the responses of the audit subjects, the independent auditors shall file with the Commission the final audit reports;

(11) Based on the final audit reports, the Chief of the Common Carrier Bureau

may take any action necessary to ensure that the universal service support mechanisms operate in a manner consistent with the requirements of Part 54, as well as such other action as is deemed necessary and in the public interest.

§ 69.622 Transition to the permanent Administrator.

(a) If the association or the independent subsidiary is not appointed the permanent Administrator, the association, independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall cooperate fully in making the permanent Administrator operational.

(b) The association and independent subsidiary shall take all steps necessary to maintain the division of responsibilities between the association, independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation as set forth in Parts 54 and 69 of these rules or such other steps that the Commission may order.

* * * * *

FCC Form 457

Universal Service Worksheet

Approval by OMB

3060-

Expires ___/___/___

Please read instructions before completing. Report actual amounts billed to customers and contributors during the filing period without subtracting uncollectibles or international settlement payments. Report revenues in whole dollars. Do not report negative amounts.

Block 1: Contributor Identification

1	Legal name of contributor		
2	IRS employer identification number	TRS Company Code	
3	Name contributor is doing business as		
4	Principal communications business (check only one)		
	<input type="checkbox"/> Shared Tenant Service Provider	<input type="checkbox"/> Payphone Service Provider	<input type="checkbox"/> Private Service Provider
	<input type="checkbox"/> Incumbent LEC	<input type="checkbox"/> CAP/CLEC	<input type="checkbox"/> Local Reseller
	<input type="checkbox"/> Cellular/PCS/SMR (wireless telephony)	<input type="checkbox"/> Paging & Messaging	<input type="checkbox"/> Wireless Data
	<input type="checkbox"/> IXC	<input type="checkbox"/> Toll Reseller	<input type="checkbox"/> OSP
	<input type="checkbox"/> Satellite	<input type="checkbox"/> Pre-paid Card	<input type="checkbox"/> Other Toll
	If Other Local, Other Mobile, or Other Toll is checked, describe contributor type below.		
5	Holding company		
6	Management company (if contributor is managed by another entity)		
7	Principal Carrier Identification Code used for interexchange service		
8	Complete mailing address of contributor's corporate headquarters		
9	Telephone number for customer inquiries	()	

Block 2: Contact Information

10	Name of contact person			
11a	Telephone number of contact person	()	11b Fax number	()
12	E-mail of contact person			
13	Complete mailing address of contact: [Filing information and future Universal Service Worksheets will be sent to this address.]			
14	Billing address: [Bills for Universal Service contributions will be sent to this address.]			

Block 3: Certification (To be designed by an office of the contributor)

I certify that I am an officer of the above-named contributor, that I have examined this report and to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named contributor.

15	Signature			
16	Printed name of officer			
17	Position with contributor			
18	Date			
19	Year of data in Block 4	Filing Period (Check one)		
	<input type="checkbox"/> Due by September 1 Data for current year, January 1 through June 30	<input type="checkbox"/> Due by March 31 Data for prior year, January 1 through December 31		
20	This filing is:	<input type="checkbox"/> Original filing	<input type="checkbox"/> Revised filing	

Do not include a check with this filing. For additional information, please call the Universal Service Administrator. Mail this Worksheet to the Universal Service Administrator, not to the FCC. The Administrator's address and telephone number are available on the FCC's website.

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001.

Please read instructions before completing. Report actual amounts billed to customers and contributors during the filing period without subtracting uncollectibles or international settlement payments. Report revenues in whole dollars. Do not report negative amounts.

Block 4: Contributor Revenue Information

21	Year of data	Filing Period (Check one)	Total Revenues	Percent Interstate & International	Interstate and International Revenues
		<input type="checkbox"/> Data for January 1 through June 30 <input type="checkbox"/> Data for January 1 through December 31	(a)	(b)	(c)
Revenue from Other Contributors					
Fixed local service					
22	Monthly service, local calling, connection charges, vertical features, inside wiring maintenance, and other local exchange service				
a	Provided as unbundled network elements				
b	Provided under tariffs or arrangements other than unbundled network elements				
23	Per minute charges for originating or terminating calls				
a	Provided as unbundled network elements or other contract arrangement				
b	Provided under state or federal access tariffs				
24	Local private line & special access				
25	Pay telephone compensation from toll contributors				
26	Other local telecommunications service revenues				
27	Universal service support revenues				
Mobile service <i>(includes wireless telephony, paging & messaging, and other mobile services)</i>					
28	Monthly, activation, and message charges except toll				
Toll Service					
29	Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.)				
30	Other switched toll service (includes MTS, 800/888 service, etc.)				
31	Long distance private line services				
32	Satellite services				
33	All other long distance services				
Revenue From All Other Sources					
Fixed local service					
34	Monthly service, local calling, connection charges, vertical features, inside wiring maintenance, and other local exchange service charges except for federally tariffed subscriber line charges				
35	Tariffed subscriber line charges				
36	Local private line and special access service				
37	Pay telephone coin revenues				
38	Other local telecommunications service revenues				
Mobile service <i>(includes wireless telephony, paging & messaging, and other mobile services)</i>					
39	Monthly and activation charges				
40	Message charges including roaming but excluding toll charges				
Toll service					
41	Pre-paid calling card				
42	International calls that both originate and terminate in foreign points				
43	Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.) other than revenues reported on Line 42				
44	Other switched toll service (includes MTS, 800/888 service, etc.)				
45	Long distance private line services				
46	Satellite services				
47	All other long distance services				
48	Subtotal of lines 34 through 41 and lines 43 through 47				
Other revenue that will not be included in the contribution base					
49	Enhanced services, billing and collection, customer premises equipment, published directory, and non-telecommunications products and service revenues				
50	Gross billed revenues from all sources				

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001.

BACK OF FORM

NOTICE TO INDIVIDUALS: Sections 54.703 and 54.713 of the Federal Communications Commission's rules requires all telecommunications carriers providing interstate telecommunications services, providers of interstate telecommunications that offer interstate telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators to contribute to universal service and file this Universal Service Worksheet (FCC Form 457) with the Universal Service Administrator. 47 C.F.R. §§ 54.703, 54.713. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data in the Worksheet will be used to calculate contributions to the universal service support mechanisms. 47 C.F.R. § 54.709.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The foregoing Notice is required by the Privacy Act of 1974, Pub. L. No. 93-579, December 31, 1974, 5 U.S.C. § 552, and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, *et seq.*

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Records Management Branch, Washington, D.C. 20554.

Until the permanent Administrator is ready to begin operations, this form should be submitted to:

USAC -- Universal Service Administration
100 South Jefferson Rd.
Whippany, NJ 07981

When the permanent Administrator is ready to begin operations, its name and address will be available on the Commission's website (www.fcc.gov).

FCC 457
July 1997

Appendix A

Universal Service Worksheet FCC Form 457

Estimated Average Burden Hours Per Response: 5 hours.

Instructions for Completing the Worksheet for Filing Contributions to the Universal Service Support Mechanisms.

NOTICE TO INDIVIDUALS

Section 54.703 of the Commission's rules requires all telecommunications carriers providing interstate telecommunications services, providers of interstate telecommunications that offer services to others for a fee, and pay telephone aggregators to contribute to the universal service support mechanisms. Section 54.711 of the Commission's rules requires all contributors to complete and submit this Worksheet on a semi-annual basis. The collection of information and fees stems from the Commission's authority under the Communications Act of 1934, as amended, Sections 4 and 254, 47 U.S.C. §§ 154 and 254. The data in this Worksheet will be used to ensure that subject entities make equitable and nondiscriminatory contributions to preserve and advance universal service. Selected information provided in the Worksheet will be made available to the public in a manner consistent with the Commission's rules. Except for contributors qualifying for the *de minimis* exemption discussed below, all carriers providing interstate telecommunications services, as well as non-carrier entities that offer interstate telecommunications to others for a fee and pay telephone aggregators, must file this Worksheet.

The foregoing Notice is required by the Privacy Act of 1974, P.L. 93-579, December 31, 1974, 5 U.S.C. § 552(a)(e)(3), and the Paperwork Reduction Act of 1995, P.L. 96-511, Section 3504(c)(3). An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Public reporting burden for this collection of information is estimated to average 5 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden, to the Federal Communications Commission, Records Management Branch, Washington, D.C. 20554.

I. Introduction.

On May 8, 1997, the Commission released rules that require all telecommunications carriers that provide interstate telecommunications services, providers of interstate telecommunications that offer services to others for a fee, and pay telephone aggregators to contribute to the universal service support mechanisms based on their proportionate share of end-user telecommunications revenues.¹ On July 17, 1997, the Commission released rules directing contributors to submit information on a Universal Service Worksheet.² Section 54.711(a) provides as follows:

Contributions shall be calculated and filed in accordance with the Universal Service Worksheet. The Universal Service Worksheet sets forth information that the contributor must submit to the Administrator on a semi-annual basis. . . .³

II. Filing Requirements and General Instructions.

A. Who must file.

All telecommunications carriers providing interstate telecommunications services within the United States, with very limited exceptions, must file an FCC Form 457 Universal Service Worksheet. For this purpose, the United States is defined as the contiguous United States, Alaska, Hawaii, American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, the Northern Mariana Islands, Palmyra, Puerto Rico, the U.S. Virgin Islands, and Wake Island.

For the purpose of calculating contributions, the term "interstate telecommunications" includes, but is not limited to, the interstate portion of the following types of services: cellular telephone and paging services; mobile radio services; operator services; personal communications services (PCS); access to interexchange services; special access; wide area telecommunications services (WATS); toll-free services; 900 services; message telephone services (MTS); private line services; telex; telegraph; video services; satellite services; and resale services. Note that all local exchange carriers provide interstate access services and, therefore, provide interstate telecommunications. Entities are subject to the universal service contribution requirement if they offer interstate telecommunications for a fee to the public even if only a narrow or limited class of users could utilize the services. Included are entities that provide interstate telecommunications to entities other than themselves for a fee

¹ Federal-State Joint Board on Universal Service, *Report and Order*, FCC 97-157, CC Docket 96-45, (rel. May 8, 1997).

² Changes to the Board of Directors of the National Exchange Carrier Association, *Report and Order*, FCC 97-, CC Dockets 97-21 and 96-45 (rel. June , 1997).

³ 47. C.F.R. § 54.711(a).

on a private, contractual basis. In addition, owners of pay telephones, sometimes referred to as "pay telephone aggregators," also must contribute to universal service. For the purpose of determining whether an entity must contribute to the universal service support mechanisms, an entity provides interstate telecommunications services, if it or if any affiliate provides interstate telecommunications, or if it provides any of its services over switches or lines that are also used to provide interstate services.

Entities that provide services only to themselves or to commonly owned affiliates need not contribute. Government entities that purchase telecommunications services in bulk on behalf of themselves, e.g., state networks provided to schools and libraries, are not required to contribute. Public safety and local governmental entities licensed under Subpart B of Part 90 of the Commission's rules are not required to contribute. Similarly, if an entity provides interstate telecommunications exclusively to public safety or government entities and does not offer services to others, that entity is not required to contribute.

Contributors whose contribution would be *de minimis*. A contributor that provides interstate telecommunications will be exempt from universal service contribution and filing requirements if that contributor's contribution for the next four quarters is expected to be less than \$100. This determination is made using the following worksheet. Enter universal service contribution bases for the current filing period in column (a). For example, if an entity is determining whether to contribute for the September 1 filing, it would use revenue data for the period beginning January 1 and ending June 30 of the current year. If an entity is determining whether to contribute for the March 31 filing, it would use revenue data for January 1 through December 31 of the previous year. Multiply these amounts by the factors in column (b) and enter the result in column (c). The contributor need not file or contribute if the amount on line 3 is less than \$100. This calculation must be made every six months.

Worksheet to determine if a contributor meets the *de minimis* standard

		amount (a)	estimation factor ** (b)	(a) x (b) (c)
1	Total universal service contribution base *			
2	Total interstate and international end-user telecommunications revenues *			
3	Total			

* The total universal service contribution base is equal to gross billed revenues to end users for telecommunications or telecommunications service. Some types of revenues can be excluded. See instructions below, in Section III-D-1.

** The semi-annual estimation factors (as well as actual contribution factors) can be found on the Commission's web page (www.fcc.gov). The estimation factors for determining whether to file a Universal Service Worksheet by September 1, 1997 are .030 for line 1 and .061 for line 2. The FCC plans to release revised estimation factors in May and November each filing year. The quarterly factors to be used to calculate actual contributions will be released after contributors have filed the semi-annual Universal Service Worksheets.

Contributors exempt from filing and contributing because of *de minimis* revenues must retain the preceding worksheet and make it available to the Commission or to the Universal Service Administrator upon request.

Entities may not file summary reports for more than one contributor. Each legal entity that provides interstate telecommunications service must file separately. Entities that have distinct articles of incorporation are separate legal entities.

B. When and Where to File.

The Universal Service Worksheet must be filed semi-annually with the Universal Service Administrator. The first Worksheet must be filed by September 1, 1997 with revenue data representing contributor operations for January 1 through June 30 of 1997. Universal Service Administrative Company (USAC) is the temporary Universal Service Administrator. For 1997, mail the completed Universal Service Worksheet to:

USAC -- Universal Service Administration
100 South Jefferson Rd.
Whippany, NJ 07981

The name of the Universal Service Administrator and addresses for future filings will be announced by Public Notice and will be available on the FCC web page (www.fcc.gov).

Subsequent filings will be due each year as follows:

March 31	Containing data for the prior calendar year
September 1	Containing data for the six-month period from January 1 through June 30 of the current calendar year

Data filed on September 1 for the first half of the year will be used to calculate universal service support contributions for January to June. Data filed on March 31 for the whole prior calendar year will be used to calculate universal service support contributions for July through December. The Universal Service Administrator will base the July through December contributions on data for the second half of the prior calendar year. The Universal Service Administrator will calculate second half data as annual data minus the previously filed first half data. Contributors should report whole year data in the March 31 filings.

DO NOT INCLUDE A CHECK WITH THE UNIVERSAL SERVICE WORKSHEET. Information filed on Universal Service Worksheets will be compiled and used to calculate the universal service contribution factors that will be used as the actual basis for contributions. The Universal Service Administrator will bill contributors for contributions due and will provide payment instructions with the bill.

C. Rounding of Numbers.

All information provided in the Worksheet, except the signature, should be neatly printed in ink or typed. Reported revenues in block 4, column (a) and column (c) may be rounded to the nearest thousand dollars. Regardless of rounding, **all dollar amounts must be reported in whole dollars.** For example, \$2,271,881.93 could be reported as \$2,271,882 or as \$2,272,000, but could not be reported as \$2272 thousand or \$2.272 million. Please enter \$0 in any line for which the contributor had no revenues for the year.

Percentages reported in block 4, column (b) should be rounded to the nearest whole percent. For example, if the ratio of interstate to total revenues was .4269155, then the figure 43 percent should be reported. Percentages between zero percent and one percent should be reported as one percent. Please enter zero percent if there were no interstate revenues for the line for the preceding calendar year.

Gross revenues reported in the Universal Service Worksheet must be taken directly from

corporate books of account. The interstate and international portion of any revenue category should be taken directly from corporate books of account if available. Otherwise, interstate revenues should be calculated as gross revenues in column (a) times the percentage shown in column (b). Calculated interstate revenues may be rounded to the nearest thousand dollars and entered in column (c).

D. Compliance.

Contributors failing to file the Universal Service Worksheet or contributions in a timely fashion may be subject to the enforcement provisions of the Communications Act and any other applicable law. In addition, Section 54.713 of the Commission's rules authorizes the Universal Service Administrator to bill a contributor for reasonable costs, including interest and administrative costs that are caused by inaccurate or untruthful filing of the Worksheet or overdue contributions.

III. Specific Instructions.

A. Block 1: Contributor Identification.

Block 1 of the Universal Service Worksheet requires identification information. Contributors are directed to provide their Telecommunications Relay Service (TRS) Company Code, which is an identification number assigned by the TRS Fund Administrator. The current TRS Fund Administrator, the National Exchange Carrier Association (NECA), can be contacted at 973-884-8173. Carriers and their TRS Company Codes are published in the annual FCC report *Carrier Locator: Interstate Service Providers*, which is available on the Commission's **FCC State Link** web site. Most companies that must contribute to the universal service support mechanisms must also contribute to the TRS fund. The exceptions are shared tenant service and private service providers, which should enter "n.a." as the TRS Company Code.

Line (1) requests the legal name of the contributor as it appears on articles of incorporation or other legal documents. Line (2) requests the Internal Revenue Service (IRS) employer identification number (EIN) for the contributor. If the contributor has more than one EIN, it should include the number used to file federal excise taxes. Line (3) requests the principal name under which the company conducts telecommunications activities. This would typically be the name that appears on customer bills, or the name used when service representatives answer customer inquiries. Line (4) provides a check-off for the principal contributor activity. Please check the category that best describes the contributor.

Shared Tenant Service Provider -- manages or owns a multi-tenant location that provides telecommunications services or facilities to the tenants for a fee.

Payphone Service Provider -- provides customers access to telephone networks

through pay telephone equipment, special teleconference rooms, etc. Payphone service providers are also referred to as pay telephone aggregators.

Private Service Provider

-- offers telecommunications to others for a fee. This would include a company that offers excess capacity on a private system that is used primarily for internal purposes.

Incumbent LEC

-- provides local exchange service. An incumbent local exchange carrier (ILEC) generally is a carrier that was at one time franchised as a monopoly service provider.

CAP/CLEC

(Competitive Access Provider/Competitive Local Exchange Carrier)

-- competes with ILECs to provide local exchange services or telecommunications services that link customers with interexchange facilities, local exchange networks, or other customers.

Local reseller

-- provides local exchange or fixed telecommunications services by reselling services of other carriers.

Cellular/PCS/SMR

(Cellular, Personal Communications Service and Specialized Mobile Radio service providers)

-- primarily provides wireless telecommunications services (wireless telephony). This category includes the provision of wireless telephony by resale.

Paging and Messaging

-- provide wireless paging or wireless messaging services. This category includes the provision of paging and messaging services by resale.

Wireless Data

-- provides mobile or fixed wireless data services using wireless technology. This category includes the provision of wireless data services by resale.

IXC

(Interexchange Carrier)

-- provides long distance telecommunications services substantially through switches or circuits that it owns or leases.

Toll Reseller

-- provides long distance telecommunications services primarily by reselling the long distance

telecommunications services of other carriers.

OSP

(Operator Service Provider)

-- companies other than ILECs that serve customers needing the assistance of an operator to complete calls, or needing alternate billing arrangements.

Satellite

-- provides satellite space segment or earth stations that are used for telecommunications service.

Pre-paid Card

-- provides pre-paid calling card services by selling pre-paid calling cards to the public or to retailers. Pre-paid card providers typically resell the toll service of other carriers and determine the price of the service by setting the price of the card and controlling the number of minutes that the card can be used for.

The form also provides boxes for "Other Local," "Other Mobile," and "Other Toll." If one of these categories is checked, the contributor should further describe the nature of the service it provides. For example, a dispatch service provider would check "Other Mobile" and enter "dispatch" in the space provided.

Line (5) requests the name of the contributor's holding company or controlling entity, if any. All affiliates or commonly controlled contributors should have the same name appearing in Line (5). An affiliate is a "person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person."⁴

Line (6) requests the name of the management company, if the contributor is managed by an entity other than itself. If the filing company and one or more other contributors is commonly managed, then each should show the same management company name on Line (6). Contributors need not be affiliated to have a common management company. The management company would typically be the point of contact for the Universal Service Administrator.

Line (7) requests the primary carrier identification code (CIC) used by the carrier for the provision of interexchange services, if any. All carriers that purchase feature group B or feature group D access services have one or more CICs. CICs are administered by the North American Numbering Plan Administration, which can be reached at 908-699-3021.

Line (8) requests the complete mailing address of the corporate headquarters. Line (9) requests a telephone number that can be used for customer inquiries.

⁴ 47 U.S.C. § 153(1).

B. Block 2: Contact Information.

The contributor should identify a contact person who can provide clarifications, additional information and, if necessary, who could serve as the first point of contact in the event that either the Commission or the Universal Service Administrator should choose to audit information provided in the Universal Service Worksheet.

Line (10) should contain the name of the contact person. Lines (11a) and (11b) should contain a telephone and fax number for the contact person, respectively. Line (12) should contain an e-mail address for the contact person, if available. Line (13) should contain the complete mailing address of the contact person. A semi-annual filing package will be mailed to this address.

Provide a name and billing address in Line (14). Information on establishing electronic fund transfer and bills for universal service contributions will be sent to this address.

C. Block 3: Certification.

An officer of the contributor must examine the data provided in the Universal Service Worksheet and certify that the information provided therein is accurate. An officer is a person who occupies a position specified in the corporate by-laws (or partnership agreement), and would typically be president, vice president for operations, vice president for finance, comptroller, treasurer or a comparable position. If the contributor is a sole proprietorship, the owner must sign the certification.

Line (15) is provided for the signature of the officer. Line (16) should contain the printed name of the officer. Line (17) should describe the position of the officer. Line (18) should contain the date the certification was signed.

Line (19) requests the filing period for which revenue data is being submitted. Filings due by September 1 should contain data for January 1 through June 30 of the current calendar year. Filings due by March 31 should contain data for January 1 through December 31 of the prior calendar year. Check the appropriate box. The same information should be entered on Line (21) on page 2.

On Line (20), there is a check-off to show whether the Worksheet is the original filing for the year, or whether the worksheet is a revised filing for the year. A contributor must file a revised Worksheet if it discovers an error in the data that it reports. Contributors generally close their books for financial purposes by the end of March. Accordingly, for such contributors, the filing due by March 31 should be based on closed books. The filing due by September 1 should be based on books as of June 30 of the filing year. Contributors should not include (carry back or bring forward) routine out-of-period adjustments to revenue data unless such adjustments would affect a reported amount by more than ten percent. Contributors should not file a revised Form 457 to reflect mergers, acquisitions, or sale of

operating units. In the event that a contributor that filed a Form 457 no longer exists, the successor company to the contributor's assets or operations is responsible for continuing to make payments for the funding period.

D. Block 4: Contributor Revenues Information.

1. Column (a).

The contributor must report gross revenues from all sources, including nonregulated and non-telecommunications services, on Line 49. Provide gross revenues for the filing period. For example, if the Worksheet is due by September 1, 1997, contributors should submit revenues billed during the calendar period January 1 through June 30, 1997. If the Worksheet is due by March 31, 1998, contributors should submit revenues billed during the calendar period January 1 through December 31, 1997. Where two contributors have merged prior to filing, the successor company should report total revenues for the reporting period for all predecessor operations. The two contributors, however, should continue to report separately if each maintains separate corporate identities and continues to operate. Gross revenues should include revenues derived from the provision of interstate, international, and intrastate telecommunications and telecommunications services. Gross revenues consist of total revenues billed to customers during the filing period with no allowances for uncollectibles or out-of-period adjustments. Billed revenues may be distinct from booked revenues. NECA pool companies should report the actual gross billed revenues (CABS Revenues) reported to the NECA pool and not settlement revenues received from the pool. For international services, gross revenues consist of gross revenues billed by U.S. contributors with no allowances for settlement payments. International settlement receipts for foreign billed service should not be included. Gross revenues also should include any surcharges on communications services that are billed to the customer and either retained by the contributor or remitted to a non-government third party under contract. Gross revenues should exclude taxes and any surcharges that are not recorded on the company books as revenues but which instead are remitted to government bodies.

Gross revenues on Line (49) should equal the sum of revenues by type of service reported on Lines (22) through (48). The Universal Service Worksheet contains two broad types of service categories: revenue from other contributors; and revenue from all other sources (also termed end-user revenues).

Revenues from services provided to resellers will be excluded from the funding base for determining universal service contributions of the underlying contributor. For this purpose, a reseller is a telecommunications service provider that 1) incorporates the purchased telecommunications services into its own offerings and 2) can reasonably be expected to contribute to support universal service based on revenues from those offerings. IXCs, for example, use access services in providing switched toll services. The underlying contributors would report the access service revenues as resale revenues and those revenues would not be incorporated in determining the underlying contributor's universal service contribution.

An underlying contributor should have documented procedures to ensure that it reports as revenues from resellers only revenues from entities that reasonably would be expected to contribute to support universal service. The procedures should include but not be limited to maintaining the following information on resellers: legal name; address; name of a contact person, and phone number of the contact person. If the underlying contributor does not have other reason to know that the entity will, in fact, resell service, then the contributor should obtain a signed statement to that effect. "International only" and "intrastate only" carriers should not be treated as resellers for the purpose of reporting revenues because they are not required to contribute to universal service. A carrier will be considered a non-contributing "international only" or "intrastate only" carrier if neither it nor any of its affiliates provide any interstate telecommunications.

Contributors are instructed to report revenues from other contributors in Lines (22) through (33). Contributors are instructed to report all other revenues in Lines (34) through (48). In many cases the categories are duplicated in the two sections. Carriers required to use the Uniform System of Accounts (USOA) prescribed in Part 32 of the Commission's rules should base their response on their USOA account data and supplemental records dividing revenues into those received from other universal service contributors and end-user revenues. All contributors should report revenues based on the following descriptions.

Fixed local service.

Fixed local services connect a specific point to one or more other points. These services can be provided using either wireline or wireless technologies and can be used for either local exchange service, private communications, or access to toll services.

Line (22) and Line (34) -- monthly service, local calling, connection charges, vertical features, inside wiring maintenance, and other local exchange services should include the basic local service revenues except for local private line revenues, access revenues, and revenues from providing mobile or cellular services. For carriers required to use the USOA, these lines should include Account 5001 -- Basic area revenue; Account 5002 -- Optional extended area revenue; Account 5050 -- Customer premises revenue; Account 5060 -- Other local exchange revenue including charges for local directory assistance; and Account 5069 -- Other local exchange revenue settlements. Line (22) also should include amounts in Account 5004 -- Other mobile services revenue -- that were derived from connecting with mobile service carriers. Revenues for services provided to carriers should be divided between Line (22a) -- provided as unbundled network elements and Line (22b) -- provided under tariffs or arrangements other than unbundled network elements (for example, resale).

Line (35) -- Tariffed subscriber line charges should contain charges to end users (other than for special access services) specified in access tariffs. Line (35) should include revenues in Account 5081 -- End user revenue -- as well as the appropriate portion of revenues in Account 5084 -- State access revenue. Contributors that do not have subscriber line charge tariffs on file with the Commission or with a state utility commission should report \$0 on

Line (35).

Line (23) -- Per-minute charges for originating or terminating calls should include Account 5082 -- Switched access revenue -- and any revenues in Account 5084 -- State access revenue -- that were based on per-minute charges. This line also would include Account 5003 -- Cellular mobile revenue (revenues to the local exchange carrier for messages between a cellular customer and another station within the mobile service area). The line should include gross charges to other carriers for the origination or termination of non-toll traffic. Do not deduct or net payments to carriers for origination or termination of traffic on their networks. Revenues for originating and terminating minutes should be divided between Line (23a) -- provided as unbundled network elements or other contract arrangements and Line (23b) -- provided under state or federal access tariffs.

Line (24) and Line (36) -- Local private line and special access should include revenues from providing local services that involve dedicated circuits, private switching arrangements and/or predefined transmission paths. These lines should include amounts recorded in Account 5040 -- Local private line revenue. These lines also should include Account 5083 -- Special access revenue -- and any intrastate special access revenues in Account 5084 -- State access revenue.

Line (25) and Line (37) -- Pay telephone compensation should include Account 5010 -- Pay telephone revenues. Line (25) should include revenues received from carriers as compensation for originating toll calls. Line (37) should include revenues from customers paid directly to the payphone service provider. This primarily will consist of revenues from coin sent paid traffic.

Line (26) and Line (38) -- Other local telecommunications services should include some revenues contained in Account 5200 -- Miscellaneous -- as well as other local telecommunications service revenues that reasonably would not be included with one of the other local service revenues categories. Line (26) should include charges for physical collocation of equipment pursuant to 47 U.S.C. § 251 (c)(6). Lines (26) and (38) should exclude: enhanced services; billing and collection; customer premises equipment (CPE) sale, lease or insurance; published directory revenues; and any non-telecommunications revenues.

Line (27) -- Universal service support revenues should include all amounts that contributors receive as universal service support from either states or the federal government. Line (27) should include as revenues Lifeline Assistance reimbursement for the waived portion of subscriber line charges or credits for subsidized services provided to schools, libraries, and rural health care providers. Line (27) should include amounts received as cash as well as amounts received as credit against contribution obligations.

Mobile service.

Mobile services are wireless communications between wireless equipment, such as cellular phones, and other points.

Line (28), Line (39), and Line (40) should contain mobile service revenues other than toll charges to mobile service customers and charges associated with customer premises equipment. A single category -- Line (28) -- is provided for all mobile service provided to resellers. Line (39) should contain monthly charges, activation fees, and service order processing charges, etc. Line (40) should contain message charges, including any roaming charges assessed for calls placed out of customers' home areas. Lines (39) and (40) should include amounts in Account 5004 -- Other mobile services revenue -- that were derived from providing service directly to the public. End-user pre-paid wireless service revenues attributable to activation and daily or monthly access charges should be reported on Line (39). End-user pre-paid wireless service revenues attributable to air time should be reported on Line (40). Toll charges to mobile service customers should be included in Line (44).

Toll carrier service.

Toll services are telecommunications services, wireline or wireless, that enable customers to communicate outside of local exchange calling areas. Toll service revenues include intrastate, interstate, and international long distance services.

Line (41) -- Pre-paid calling card should include revenues from pre-paid calling cards provided either to customers or to retail establishments. Gross billed revenues should represent the amounts actually paid by customers for the cards without any reduction or adjustment for discounts provided to retail establishments. All pre-paid card revenues are classified as end-user revenues.

Line (42) - International calls that both originate and terminate in foreign points are exempt from universal service contributions regardless of whether the service is provided to resellers or to end users. Nevertheless, revenues derived from such international calls should be included on Line (42). Contributors should not report international settlement revenues from transiting traffic on the Worksheet.

Line (29) and Line (43) -- Operator and toll calls with alternative billing arrangements should include all calling card or credit card calls, person-to-person calls, and calls with alternative billing arrangements such as third number billing, collect calls, and country-direct type calls that either originate or terminate in a U.S. point. These lines should include all charges from toll or long distance directory assistance. Lines (29) and (43) should include revenues from all calls placed from coin, public and semi-public, accommodation and prison telephones, except that calls that are paid for via pre-paid calling cards should be included in Line (42), and calls paid for by coins deposited in the phone should be included in Line (37).

Line (30) and Line (44) -- Other switched toll service should include amounts from Account 5100 -- Long distance message revenue -- except for amounts reported on Lines (29), (41),

(42) or (43). Line (30) and Line (44) include ordinary message telephone service, WATS, toll-free, 900, "WATS-like," and similar switched services.

Line (31) and Line (45) -- Long distance private line service should include revenues from dedicated circuits, private switching arrangements, and/or predefined transmission paths, extending beyond the basic service area. This category should include revenues from the resale of special access services. Line (31) and Line (45) should include Account 5120 -- Long distance private network revenue.

Line (32) and Line (46) -- Satellite service should contain revenues from providing space segment service and earth station up-link capacity used for providing telecommunications or telecommunications services via satellite.

Line (33) and Line (47) -- All other long distance should include all other revenues from providing long distance communications services. These lines should include Account 5160 - - Other long distance revenue.

Line (48) should contain a subtotal of Lines (34) through (41) and Lines (43) through (47). All revenues reported in Lines (34) through (41) and Lines (43) through (47) are referred to as the **universal service contribution base** and represent the revenues of the contributor that will be used to calculate universal service contributions.

Other revenues.

Contributors may have revenues on their books that are not derived from telecommunications or telecommunications-related functions that should not be included in the universal service contribution base. For example, information services offering a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications are not included in the universal service contribution base. Information services do not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. Information services are also called enhanced services because they are offered over common carrier transmission facilities used in interstate communications and employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. These services are exempt from contribution requirements.

Line (49) should contain revenues from enhanced services and other services that are exempt from contribution requirements and are not reported elsewhere. Line (49) should include Account 5230 -- Directory revenues -- and Account 5270 -- Carrier billing and collection revenue. Line (49) should include revenues from the sale, lease, maintenance or insurance of customer premises equipment (CPE) and all non-telecommunications service revenues on the contributor's books.

Line (50) - Gross billed revenues from all sources should contain a total of all revenues in Lines (22) through (49).

2. Column (b).

For each entry in Lines (22b) through (23a), and Lines (24) through (47), estimate the percentage amounts reported in column (a) that are for interstate or international service, and enter this percentage in Column (b). Interstate and international revenues include all revenues received for calls that do not originate and terminate in the same state. For example, if a cellular carrier collects a fixed amount of revenue per minute of traffic, and 15 percent of minutes are interstate, then interstate revenues would include 15 percent of the per-minute revenues. Similarly, if a LEC bills local measured service charges for calls that originate in one state and terminate in another, these billings should be classified as interstate even though they are included in a local service account. Under the Commission's rules, if over ten percent of the traffic carried over a private or WATS line is interstate, then the revenues and costs generated by the entire line are classified as interstate.⁵ In general, flat-rated unbundled network access elements should be classified according to the regulatory agency that has primary jurisdiction over the contracts.

Wherever possible, contributors should calculate the percentage of total revenues that are interstate by using information from their books of accounts and other internal data reporting systems. In such cases, contributors should enter the booked amount in column (c). Contributors who cannot calculate a percentage by using information from their books of accounts and other internal data reporting systems may elect to rely on a special study to estimate the percentages. All information supporting special studies must be made available to either the FCC or to the Universal Service Administrator upon request.

3. Column (c).

Contributors should enter booked revenues for interstate and international service combined in column (c). If interstate and international revenues cannot be taken directly from the contributor's books, multiply the gross revenues reported in column (a) by the interstate and international percentages reported in column (b), and then place the results in column (c).

IV. Reminders.

- **Each affiliate or subsidiary must file separately.** Each affiliate or subsidiary should show the same holding company name on Line (5).
- **Provide data for all lines that apply.** Show a zero for all items for which the contributor had no revenues for the filing period.

⁵ See 47 C.F.R. § 36.154(a).

- **Contributors must file twice a year.** Contributors must provide revenue data for January 1 through June 30 by September 1 of each year. Contributors must provide revenue data for January 1 through December 31 of the prior year by March 31 of each year.

- **The Worksheet must be signed by an officer** of the company. An officer is a person who occupies a position specified in the corporate by-laws (or partnership agreement, and would typically be president, vice president for operations, comptroller or a comparable position.