requirements as a result of their efforts to comply with other provisions of the 1996 Act, *i.e.*, Section 251.

16. *Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives*: We anticipate that the impact of this proceeding should be beneficial to small businesses since they may be able to share infrastructure with larger incumbent LECs, in certain circumstances, enabling small carriers to provide telecommunication services or information services that they otherwise might not be able to provide without building or buying their own facilities. The *Infrastructure Sharing NPRM* contains a detailed set of questions to allow commenters to assist the Commission in interpreting Section 259, including the following significant provisions of Section 259 that may impact small entities.

17. Section 259(a) requires the Commission to adopt regulations to ensure that incumbent LECs make available, to defined qualifying carriers, ''public switched network infrastructure, technology, information, and telecommunications facilities and functions.'' Qualifying carriers are defined in Section 259(d) as carriers that lack economies of scale or scope and that request and obtain designation to receive universal service support pursuant to Section 214(e). As a result of this limitation on the carriers that qualify for Section 259 sharing arrangements, we ask whether, in fact, the purpose of Section 259 is to benefit small carriers. In addition, we ask whether there is a relationship between carrier size, however defined, and a determination that the carrier either has or lacks economies of scale or scope. Additionally, we ask whether certain incumbent LECs could lack economies of scale or scope, and, thus, meet the Section 259(d)(1) definition of qualifying carrier and, nevertheless, also be required to *provide* ''public switched network infrastructure, technology, information, and telecommunications facilities and functions'' to other qualifying carriers.

18. In addition, the statute directs the Commission to refrain from requiring actions by incumbent LECs that are economically unreasonable or contrary to the public interest. The Commission may permit, but may not require, joint ownership of infrastructure, and must provide that incumbent LECs are not treated as common carriers by virtue of their Section 259 obligations. In this *NPRM*, we seek comment on how to implement the above provisions. Section 259(b)(4) further directs the Commission to establish guidelines implementing infrastructure sharing on just and reasonable terms where qualifying carriers ''fully benefit'' from the economies of scale and scope enjoyed by incumbents, and to act so as to promote cooperation between LECs. In construing Section 259(b)(4), we ask whether Section 259 conveys to the Commission the power to establish pricing rules or guidelines for public switched network infrastructure, technology, information, and telecommunications facilities and functions. We also ask questions about how such pricing authority could be implemented.

19. Section 259(c) requires local exchange carriers that have entered into infrastructure sharing agreements to provide ''timely information on the planned deployment of telecommunications services and equipment . . . .'' In the *NPRM*, we seek comment on how the Commission both can implement Section 259(c) and promote the goal shared by Congress and the Commission of reducing duplicative administrative requirements.

20. *Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*: The *NPRM* tentatively concludes that the implementation of Section 259 should be complementary to the implementation of other sections of the 1996 Act and asks questions designed to explore that complementary relationship. The *NPRM*, for example, addresses the relationship between the infrastructure sharing requirements in Section 259 and the competitive access requirements in Sections 251 and 252.

Ordering Clauses

Accordingly, *It is ordered* that pursuant to Sections 1–5, 201–205, 218 and 259 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 151–155, 201–205, 218 and 259, a Notice of Proposed Rulemaking is hereby adopted.

It is further ordered that the Secretary shall send a copy of this Notice of Proposed Rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.* (1981).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–30661 Filed 11–29–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Chapter I

[CC Docket No. 96–45: FCC 96J–3]

Universal Service

AGENCY: Federal Communications Commission.

ACTION: Recommended decision.

SUMMARY: On November 7, 1996, the Federal-State Joint Board adopted a Recommended Decision, as required by section 254 of the Telecommunications Act of 1996 (''1996 Act''), regarding universal service. In the decision, the Joint Board made numerous recommendations on universal service issues including, for example, issues relating to: universal service principles; services eligible for support; support mechanisms for rural, insular, and high cost areas; support for low income consumers; affordability; support for schools, libraries, and health care providers; administration of support mechanisms; and common line cost recovery. The Commission seeks comment on the Recommended Decision.

DATES: Comments should be filed on or before December 16, 1996 and Reply Comments on or before January 10, 1997.

ADDRESSES: Interested parties must file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, Room 222, 1919 M Street, N.W., Washington, D.C. 20554. Comments should reference CC Docket No. 96–45. Parties should send one copy of their comments to the Commission's copy contractor, International Transcription Service, Room 140, 2100 M Street, N.W., Washington, D.C. 20037. Parties must also serve copies of their comments on the individuals identified in the attached service list. After filing, comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

Parties are also asked to submit comments on diskette. Diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Sheryl Todd, Common Carrier Bureau, 2100 M Street, N.W., Room 8611, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette in an IBM compatible format using WordPerfect 5.1 for Windows software in a ''read only'' mode. The diskette should be clearly labelled with the party's name, proceeding, and date

of submission. The diskette should be accompanied by a cover letter.

FOR FURTHER INFORMATION CONTACT: Sheryl Todd at 202–530–6040.

SUPPLEMENTARY INFORMATION: The Joint Board recommended that the Commission specifically seek additional information and comment on a number of topics, including, for example:

Principles. How should the additional principle of competitive neutrality be defined and applied within the context of universal service?

Low-Income. What baseline amount of support should be provided to low-income consumers? Is the $5.25 baseline amount suggested in the Recommended Decision likely to be adequate? How can the FCC avoid the unintended consequence that the increased federal support amount has no direct effect on Lifeline subscribers' rates in many populous states with Lifeline programs, and instead results only in a larger percentage of total support being generated from federal sources?

Schools/Libraries. What methods should the Commission use for identifying high cost areas for purposes of providing a greater discount to schools and libraries located in high cost areas? What measures of economic advantage may be readily available to identify economically disadvantaged non-public schools and economically disadvantaged libraries or, if none is readily available, what information could be required that would be minimally burdensome?

Health Care. What is the exact scope of services that should be included in the list of additional services ''necessary for the provision of health care'' in a state? In responding, commenters should address the telecommunications needs of rural health care providers and the most cost-effective ways to provide these services to rural areas. What would be the relative costs and benefits of supporting technologies and services that require bandwidth higher than 1.544 Mbps? How rapidly is local access to Internet Service Providers (ISPs) expanding in rural areas of the country, and what are the costs likely to be incurred in providing toll-free access to ISPs for health care providers in rural areas? What are the probable costs that would be incurred in eliminating distance-based charges and/or charges on traffic between Local Access and Transport Areas (LATAs) (interLATA traffic), where such charges are in excess of those paid by customers in the nearest urban areas of the state? Do insular areas experience a disparity in telecommunications rates between urbanized and non-urbanized areas? Commenters should supply information on the size of cities and other demographic information pertaining to insular areas that might be used to establish the urban rate and rural rate in each of those areas. What costs would be incurred in supporting upgrades to the public switched network necessary to provide services to rural health care providers? To what extent, and on what schedule, might ongoing network modernization, as is currently going forward under private initiative or according to state-sponsored modernization plans, make universal service support for such upgrades unnecessary? What are the probable costs, and the advantages and disadvantages, of supporting upgrades to public switched or backbone networks where such upgrades can be shown to be necessary to deliver eligible services to rural health care providers?

Administration. Should contributions for high cost and low-income support mechanisms be based on the intrastate and interstate revenues of carriers that provide interstate telecommunications services, based on the factors enumerated in the Recommended Decision? Should the intrastate nature of the services supported by the high cost and low-income programs have a bearing on the revenue base for assessing funds? Should contributing carriers' abilities to identify separately intrastate and interstate revenues in an evolving telecommunications market and carriers' incentives to shift revenues between jurisdictions to avoid contributions have a bearing on this question?

We ask parties to address the effects that the Joint Board's recommendations to the Commission are likely to have on small entities and what measures the Commission should undertake to avoid significant economic impact on small business entities as defined by Section 601(3) of the Regulatory Flexibility Act. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Recommended Decision, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis.

The Commission invites interested parties to file comments on the Joint Board's recommendations and on the Commission's legal authority to implement such recommendations. Copies of the Recommended Decision can be obtained from (1) the International Transcription Service (ITS), Room 140, 2100 M Street, N.W., Washington, D.C. 20037 or (2) the FCC World Wide Web Home Page: http://www.fcc.gov.

Summary of Recommended Decision

1. Principles. We recommend that policy on universal service should be a fair and reasonable balance of all of those principles identified in section 254(b) and the additional principle we identify in this section. We recognize, however, that our primary responsibility on this matter is to ensure that consumers throughout the Nation are not harmed and are benefited under our recommendation. To this end, we recommend that promotion of any one goal or principle in this proceeding should be tempered by a commitment to ensure quality services at just, reasonable, and affordable rates in all areas of the Nation, for those services that meet the section 254(c)(1) criteria.

2. We recommend that the Commission also establish ''competitive neutrality'' as an additional principle upon which it shall base policies for the preservation and advancement of universal service, pursuant to section 254(b)(7). We ask that the Commission define the principle in the context of determining universal service support, as:

''COMPETITIVE NEUTRALITY—Universal service support mechanisms and rules should be applied in a competitively neutral manner.''

3. We believe that the principle of competitive neutrality encompasses the concept of technological neutrality by allowing the marketplace to direct the development and growth of technology and avoiding endorsement of potentially obsolete services. In recognizing the concept of technological neutrality, we are not guaranteeing the success of any technology for all purposes supported through universal service support mechanisms but merely stating that universal service support should not be biased toward any particular technologies. We further believe that the principle of competitive neutrality should be applied to each and every recipient and contributor to the universal service support mechanisms, regardless of size, status or geographic location.

4. Given the provisions elsewhere in the law that require access to telecommunications equipment and services by people with disabilities, we recommend that the Commission not adopt specific principles related to telecommunications users with disabilities in this universal service proceeding. With respect to the requests for additional principles designed to promote the welfare of other specific groups such as subscribers in rural areas and customers with low incomes, we do

not recommend the establishment of any additional principles.

5. Finally, although this Joint Board supports the concept of administrative simplicity, we do not recommend that the Commission formally adopt this concept as a principle. Section 254(b)(5) provides that support mechanisms should be ''[s]pecific and *predictable*.'' We find that this principle encompasses administrative simplicity. In addition, we decline to recommend that access to the particular services commenters have proposed become guiding principles for the Commission's universal service policies. Instead, we consider whether these services, consistent with the principles of the 1996 Act, should be included in the definition of universal service.

6. Definition of Universal Service: What Services to Support. The 1996 Act defines ''telecommunications services'' as ''the offering of telecommunications for a fee directly to the public * * * regardless of the facilities used.'' With the exception of single-party service and touch-tone dialing, the core services proposed in the Notice of Proposed Rulemaking and Order Establishing a Joint Board (NPRM) represent functionalities or applications associated with the provision of access to the public network, rather than tariffed services. The Joint Board concludes that defining telecommunications services in a functional sense, rather than on the basis of tariffed services alone, is consistent with the intent of section 254(c)(1).

7. Based on the overwhelming support in the record, the Joint Board recommends that the services proposed in the NPRM should be included in the general definition of services supported under section 254(c)(1). We reject the arguments of commenters that a service must meet all of the statutory criteria of section 254(c)(1)(A)–(D) before it may be included within the definition of universal service. Instead, we conclude that while the Joint Board must consider all four criteria before determining that a service or functionality should be included, we need not find that a particular service meets each of the four criteria. Accordingly, we recommend that the services proposed in the NPRM, namely, single-party service, voice grade access to the public switched telephone network (PTSN), DTMF or its functional digital equivalent, access to emergency services and access to operator services be designated for universal service support pursuant to section 254(c)(1).

8. The Joint Board recommends that single-party service should receive universal service support. We further find that single-party service means that only one customer will be served by each subscriber loop or access line, although carriers may offer consumers the choice of multi-party service in addition to single-party service and remain eligible for universal service support. In addition, to the extent that wireless providers use spectrum shared among users to provide service, we find that wireless carriers provide the equivalent of single-party service since users are given a dedicated channel for each transmission. (Wireless carriers are not, however, required to provide a single channel dedicated to a particular user at all times; a wireless carrier provides the equivalent of single-party service when it provides a dedicated message path for the length of a user's particular transmission.) Moreover, we recommend permitting a transition period for carriers to make upgrades to provide single-party service, but only to the extent carriers can meet a heavy burden that such a transition period is necessary and in the public interest. Since state commissions will be responsible for designating carriers as eligible for purpose of receiving federal universal service support, we recommend that states make the determination as to the need for a transition period for a particular carrier.

9. We find that the record provides ample support for our conclusion that voice grade access, an essential element to telephone service, is subscribed to by a substantial majority of residential customers and is being deployed in public telecommunications networks by telecommunications carriers. In addition, we find that voice grade access should occur in the frequency range between approximately 500 Hertz and 4,000 Hertz, for a bandwidth of approximately 3,500 Hertz. Voice grade access should also include the ability to place calls, including the ability to signal the network that the caller wishes to place a call, and the ability to receive calls, including the ability to signal the called party that there is an incoming call. (We explicitly do not include call waiting within this definition.)

10. Based on strong support in the record, we also recommend including a local usage component within the definition of voice grade access. We conclude that the states are best positioned to determine the local usage component that represents affordable service within their jurisdictions. Nonetheless, for purposes of determining the amount of federal universal service support, we recommend that the Commission determine a level of local usage.

11. We agree with commenters who argue that ''touch-tone'' is more appropriately termed DTMF signaling. DTMF facilitates the transportation of signaling through the network. DTMF also accelerates call set-up time. As noted in the NPRM, other methods of signaling, such as digital signaling, can provide network benefits equivalent to that of DTMF. Therefore, we recommend that DTMF or its functional digital equivalent (hereinafter referred to as ''DTMF'') be supported under section 254(c)(1).

12. Like the other core services, access to emergency service is a functionality that is widely deployed and subscribed to by a majority of residential subscribers. Further, access to emergency service is widely recognized as ''essential to * * * public safety.'' In defining access, the record supports the inclusion of access to 911 (but not for Public Safety Answering Points, which local public safety officials provide). Nearly 90 percent of lines today have access to 911 capability. In addition, we recommend access to E911 service, where the locality has chosen to implement that service, be included in the definition of universal service. We do not recommend providing universal service support, however, for E911 service. We recommend not including E911 service within the definition of services to be supported at this time, but may recommend its consideration when the definition is revisited, as anticipated by section 254(c)(2).

13. In supporting access to operator service, we recommend that the Commission adopt the definition of operator services it implemented for purposes of section 251(b)(3), namely, ''any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call.''

14. In addition to the services proposed to be included within the general definition of universal service by the NPRM, the Joint Board recommends that access to interexchange service be included. The Joint Board, however, recommends that access to interexchange service should not be defined, at this time, to include equal access to interexchange carriers.

15. The Joint Board also recommends including access to directory assistance, specifically, the ability to place a call to directory assistance, in the definition of universal service. Like access to interexchange service, access to directory service is a functionality of the loop. We recommend that support be provided for access to directory assistance, not the service itself. Therefore, we will refer to voice grade

access to the public switched network, DTMF or touch-tone, single-party service, access to emergency service, access to operator service, access to interexchange service, and access to directory assistance as the ''designated'' or ''core'' services for section 254(c)(1) universal service purposes .

16. We generally agree with those commenters that argue that carriers designated as eligible telecommunications service providers must provide each of the services designated for support subject to certain exemptions as discussed below. We recommend that telecommunications carriers that are unable to provide one or more of these services should not receive universal service support unless exceptional circumstances exist. We recommend that states have the discretion to provide for a transition period, for good cause, to allow carriers to make upgrades to provide single-party service.

17. In addition to our general conclusion that carriers must provide each of the designated services in order to receive support, we find that universal service support should be available in limited instances where a carrier is unable to provide a few specific services. For example, based on our analysis of E911, discussed above, we conclude that access to E911 should be among those services supported by universal service mechanisms because, for example, it is ''essential to * * * public safety'' consistent with section 254(c)(1)(A). We realize, however, that not all carriers are currently capable of providing access to E911 and, in fact, not all communities have the facilities in place to provide E911 service. Nevertheless, we conclude that access to E911 should be supported to the extent that carriers are providing such access. Similarly, as discussed below, we find that toll blocking or control services should be supported when provided to qualifying low-income consumers, to the extent that eligible carriers are technically capable of providing these services. Thus, we recommend that eligible carriers be required to provide all of those services we characterize as ''designated'' services, but we also recommend that the Commission support additional services such as E911 and toll limitation, to the extent eligible carriers are providing these important services.

18. Finally, we conclude that waivers should not be generally available to carriers that do not provide one or more of the designated services. Nevertheless, the record supports the contention that some carriers may currently be unable to offer single-party service. Because section 214(e) requires eligible carriers to ''offer the services that are supported by Federal universal service support mechanisms under section 254,'' we are unwilling to recommend that telecommunications providers be permitted to receive broad waivers from the requirement to provide the services we recommend designating for universal service support. As discussed above, however, we recommend that state commission be permitted to grant a request for a transition to carriers that cannot currently provide single-party service if the circumstances warrant such a transition period.

19. We find that support for designated services provided to residential customers should be limited to those services carried on a single connection to a subscriber's principal residence. (In light of our recommended principle of competitive neutrality, we will hereinafter refer to ''connections'' rather than ''lines.'') We conclude that support for a single residential connection will permit a household complete access to telecommunications and information services. The Joint Board, however, declines at this time to provide support for other residential connections beyond the primary residential connection. Support for a second connection is not necessary for a household to have the required ''access'' to telecommunications and information services. We are unpersuaded that universal service support should be extended to second residences in high cost areas. We conclude that the consumer benefits that result from support should not be extended to second homes. Such residences may not be occupied at all times, and their occupants presumably can afford to pay rates that accurately reflect the cost of service.

20. We find that designated services carried to single-connection businesses in rural, insular and other high cost areas should be supported by universal service mechanisms, although we find that a reduced level of support may be appropriate. We find general similarities between residential and single-line business customers. Both single-line business and residential subscribers require access for health, safety and employment reasons. We recommend making universal service support available for designated services carried to single-connection businesses in high cost areas.

21. We conclude, however, that designated services carried to businesses subscribing to only one connection should not receive the full amount of support designated for residential connections in high cost areas. We recommend that, for business connections, a standard different from that applied to residential connections for determining support should be established. We recommend initially supporting the designated services carried on business connections in a high cost area at a lower level than that provided for residential connections in the same area. As discussed, below, we recommend that the Commission use a benchmark based on the revenue generated per line to determine the amount of support carriers should receive. Under this recommended approach, eligible carriers would receive less support for serving single-connection businesses than they would for residential service because business rates are higher than residential rates. As discussed in greater detail below, we recommend that the amount of support be derived from calculating the difference between the cost of providing service and the benchmark amount.

22. The 1996 Act enunciates the principle that ''quality services'' should be available. We refrain from recommending that the Commission require that eligible carriers meet specific, Commission-established technical standards as a condition to receiving universal service support. We recommend that the Commission, to the extent possible, rely on existing data to monitor service quality. Because many states already have adopted service quality requirements, we do not recommend that the Commission undertake efforts to collect quality of service data in addition to those already in place with respect to price cap LECs. In many cases, additional requirements by the Commission would duplicate the states' efforts. Instead, we recommend that state commissions submit to the Commission the service quality data provided to them by carriers. We further recommend that the Commission not impose data collection requirements on carriers at this time. Therefore, we conclude that the Commission should rely on service quality data collected at the state level in making its determination that ''quality services'' are available, consistent with section 254(b)(1).

23. We recommend that the Commission convene a Joint Board no later than January 1, 2001, to revisit the definition of universal service. In addition, the Commission may institute a review at any time upon its own motion or in response to petitions by interested parties. We note that, in complying with the statutory mandate of section 706(b) of the 1996 Act, the Commission may take additional steps to determine whether advanced

telecommunications capability is being deployed to all Americans.

24. We find the record to be insufficient at this time to support our recommending that the Commission adopt reporting requirements in order to collect data that may assist the Commission in reevaluating the definition of universal service. We recommend that the Commission base future analyses of the definition of universal service on data derived from the Commission's existing data collection mechanisms such as those collected through ARMIS.

25. Affordability. In the 1996 Act, Congress not only reaffirmed the continued applicability of the principle of ''just and reasonable'' rates, but also introduced the concept of ''affordability.'' Although we believe an increasingly refined understanding of the term affordability will evolve over time, we find that the Webster Dictionary definition is instructive in determining how to interpret the concept for purposes of crafting universal service policies consistent with the congressional intent underlying section 254. The definition of affordable contains both an absolute component (''to have enough or the means for'') and a relative component (''to bear the cost of without serious detriment''). Therefore, we conclude that both the absolute and relative components must be considered in making the affordability determination required under the statute. We find that an evaluation that considers price alone does not effectively address either component of affordability. In general, we find that factors other than rates, such as local calling area size, income levels, cost of living, population density, and other socio-economic indicators may affect affordability. (The specific needs of low-income consumers are addressed below.)

26. Although subscribership levels can be influenced by many factors (such as the level of toll charges or service connection charges), we agree with the many commenters that argue that a general correlation exists between subscribership level and affordability. We find monitoring subscribership to be a tool in evaluating the affordability of rates. It should not, however, be the exclusive tool in measuring affordability. Subscribership levels do not address the second component of the definition of affordability, namely, whether paying the rates charged for services imposes a hardship on those who subscribe.

27. We also find that the scope of the local calling area directly and significantly affects affordability. Therefore, the Joint Board concludes that the scope of the local calling area should be considered as another factor to be weighed when determining the affordability of rates. In addition, we find that in considering this last factor, examining the number of subscribers to which one has access for local service in a local calling area alone is not sufficient. A determination should be made that the calling area reflects the pertinent ''community of interest,'' allowing subscribers to call hospitals, schools, and other essential services without incurring a toll charge.

28. Customer income level also is a factor that should be examined when addressing affordability. While a specific rate may be affordable to most customers in an affluent area, the same rate may not be affordable to lower income customers. We agree with the conclusions of many commenters regarding the nexus between income level and ability to afford telephone service. We conclude that per capita income of a local or regional area, and not a national median, should be considered in determining affordability. In addition to income level, we conclude that the cost of living in an area may affect the affordability of a given rate.

29. We also recognize that many variations in a state's rates reflect ''legitimate local variations in rate design.'' Such variations include the proportion of fixed costs allocated between local services and intrastate toll services; proportions of local service revenue derived from per-minute charges and monthly recurring charges; and the imposition of mileage charges to recover additional revenues from customers located a significant distance from the wire center. We find that these factors too should be considered in making the determination of affordability of rates.

30. In light of our conclusions regarding the importance of the particular factors other than rates identified in the preceding paragraphs, we recommend that the states exercise primary responsibility, consistent with the standard enumerated above, for determining the affordability of rates. To the extent that consumers wish to challenge whether a rate is truly ''affordable,'' we find the state commissions, in light of their rate-setting roles, are the appropriate forums for raising such issues. Additionally, we conclude that the Commission should continue to oversee the development of the concept of affordability, and may take action to ensure rates are affordable, where necessary and appropriate.

31. Although we recommend that the states should make the primary determination of rate affordability, we recognize that Congress, through the 1996 Act, gave the Commission a role in ensuring universal service affordability. Subscribership levels, while not dispositive on the issue of affordability, provide an objective criterion to assess the overall success of state and federal universal service policies in maintaining affordable rates. Therefore, we recommend that, to the extent that subscribership levels fall from the current levels on a statewide basis, the Commission and affected state should work together informally to determine the cause of the decrease and the implications for rate affordability in that state. If necessary and appropriate, the Commission may open a formal inquiry on such matters and, in concert with the affected state, take such action as is necessary to fulfill the requirements of section 254. We find that this proposed dual approach in which both the states and the Commission play roles in ensuring affordable rates is consistent with the statutory mandate embodied in section 254(i).

32. Carriers Eligible for Universal Service Support. We recommend that the Commission adopt, without further elaboration, the statutory criteria contained in section 214(e)(1) as the rules for determining whether a telecommunications carrier is eligible to receive universal service support. Pursuant to these criteria, a telecommunications carrier would be eligible to receive universal service support if the carrier is a common carrier and if, throughout the service area for which the carrier is designated by the state commission as an eligible carrier, the carrier: (1) offers all of the services that are supported by federal universal service support mechanisms under section 254(c) (we recommend, however, that carriers that lack the technical capability to offer toll-limitation services to qualifying low-income consumers not be required to offer such services, as otherwise provided below); (2) offers such services using its own facilities or a combination of its own facilities and resale of another carrier's services, including the services offered by another eligible telecommunications carrier; and (3) advertises the availability of and charges for such services using media of general distribution. We agree with the majority of commenters who argue that any carrier that meets these criteria is eligible to receive federal universal service support, regardless of the technology used by that carrier.

33. In addition, we recommend that companies subject to price cap regulation be eligible to receive universal service support. We agree with those commenters that argue that price cap regulation is an important tool to smooth the transition to competition and that its use should not foreclose price cap companies from receiving universal service support. Having recommended against the exclusion of price cap companies, we conclude that we need not address how to define precisely which carriers are subject to price cap regulation.

34. Section 214(e)(1) requires that, in order to be eligible for universal service support, a common carrier must offer universal service throughout the state-designated service area either using its own facilities or a combination of its own facilities and the resale of another carrier's services, including those of another eligible carrier. We find that the plain meaning of this provision is that a carrier would be eligible for universal service support if it offers all of the specified services throughout the service area using its own facilities or using its own facilities in combination with the resale of the specified services purchased from another carrier, including the incumbent LEC or any other carrier. We do not recommend that a carrier that offers universal service solely through reselling another carrier's universal service package should be eligible for universal service support. Similarly, we do not recommend that only those telecommunications carriers that offer universal service wholly over their own facilities should be eligible for universal service.

35. The NPRM sought comment on various other issues related to eligibility. Specifically, it sought comment on whether rules should be developed to: (1) ensure that universal service support be used as intended (i.e., for the ''provision, maintenance, and upgrading of facilities and services for which the support is intended''); (2) ensure that only eligible carriers receive support; and (3) set guidelines for advertising. Because relatively few commenters addressed these issues, there are few detailed proposals in the record on how to resolve them. For the first of these issues, developing rules to ensure that universal service support is used as intended, we believe that concerns about misuse of funds would largely be alleviated once competition arrives. We find that a competitive market would minimize the incentives and opportunities to misuse funds. In the absence of competition, we find that the optimal approach to minimizing misuse of funds is to adopt a mechanism that will set universal support at levels that reflect the costs of providing universal service efficiently. Should additional measures be necessary, we recommend that the Commission, to the extent that states monitor carriers to ensure the provision of the supported services, rely on the states' monitoring. Where necessary (for example, if the state has insufficient resources to support such monitoring programs) we recommend that the Commission conduct periodic reviews to ensure that universal service is being provided. On the question of ensuring that only eligible carriers receive support, we agree with commenters that additional rules are unnecessary because only carriers found eligible by the states will receive funding. We recommend no additional rules at this time.

36. We recommend that the Commission not adopt, at this time, any national guidelines relating to the requirement that carriers advertise throughout the service area the availability of and rates for universal service using media of general distribution. We recommend that states should, in the first instance, establish guidelines, if needed, to govern such advertising.

37. We recommend that the Commission retain the current study areas of rural telephone companies as the service areas for such companies. Section 214(e)(5) provides that for an area served by a rural telephone company, the term ''service area'' means such company's study area ''unless or until the Commission and the States, after taking into account the recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.''

38. We find that sections 214(e)(2) and 214(e)(5) grant to the state commissions the authority and responsibility to designate the area throughout which a carrier must provide the defined core services in order to be eligible for universal service support. We further conclude that, while this authority is explicitly delegated to the state commissions, states should exercise this authority in a manner that promotes the pro-competitive goals of the 1996 Act as well as the universal service principles of section 254. The Joint Board thus recommends that the Commission urge the states to designate service areas for non-rural telephone company areas that are of sufficiently small geographic scope to permit efficient targeting of high cost support and to facilitate entry by competing carriers. We recommend that the Commission encourage states, where appropriate to foster competition, to designate service areas that do not disadvantage new entrants. Consequently, we recommend that the geographic size of the state designated service areas should not be unreasonably large.

39. Even if the state commission were to designate a large service area, however, we believe that it would be consistent with the 1996 Act to base the actual level of support, if any, that non-rural telephone company carriers would receive for the service area on the costs to provide service in sub-units of that area. We recommend that the Commission, where necessary to permit efficient targeting of universal support, establish the level of universal service support based on areas that may be smaller than the service area designated by the state. The service area designated by the state is the geographic area used for ''the purpose of determining universal support obligations and support mechanisms.'' We find that this language refers to the designation of the area throughout which a carrier is obligated to offer and advertise universal service. It defines the overall area for which the carrier will receive support from the ''specific, predictable, and sufficient mechanism established by the Commission to preserve and advance universal service.'' We conclude that this language would not bar the Commission from disaggregating the state-designated service area into smaller areas in order to: (1) Identify high cost areas within the service area; and (2) determine the level of support payments that a carrier would receive for the overall service area based on the sum of the support levels as determined by the costs of serving each of the disaggregated areas. Other than the requirements contained in section 214(e)(3), we recommend that the Commission not adopt any particular rules to govern how carriers for unserved areas are designated.

40. High Cost Support. We believe that a properly crafted proxy model can be used to calculate the forward-looking economic costs for specific geographic areas, and be used as the cost input in determining the level of support a carrier may need to serve a high cost area. We cannot recommend, however, that any of the proxy models submitted in this proceeding thus far—the BCM, the BCM2, the CPM, and the Hatfield model—should be used to determine universal service support levels. While the proxy models continue to evolve and improve, none of those submitted in this proceeding are sufficiently

developed to allow us to recommend a specific model at this time. The Joint Board therefore recommends that the Commission continue to work with the state commissions to develop an adequate proxy model that can be used to determine the cost of providing supported services in a particular geographic area, and in calculating what support, if any, a carrier should receive for providing services designated for universal service support. We recommend that a proxy model be developed such that it can be adopted by the Commission by May 8, 1997, the statutory deadline for the Commission to implement our recommendations in this proceeding.

41. We find that forward-looking economic costs should be used to determine the cost of providing universal service. Those costs best approximate the costs that would be incurred by an efficient competitor entering that market. We believe that support should be based on the cost of an efficient carrier and should not be used to offset the costs of inefficient provision of service, or costs associated with services that are not included in our definition of supported services, such as private lines, interexchange services, and video services. The actual level of support that a carrier receives from federal universal service support mechanisms, if any, would be based on the difference between the cost of service as determined by a proxy model and the benchmark amount.

42. The Joint Board recommends that the forward-looking economic cost of providing supported services should include all of the costs of the telephone network elements that are used to provide supported services. We acknowledge that the loop is essential for the provision of all services, not just those supported by the federal universal service mechanisms. We note, however, that supported services include not only local service but also access to interexchange service. The cost of loop can vary depending on the type of services provided. We recognize that the provision of ISDN and video services could increase the cost of the loop, but the additional loop costs incurred to provide these services should be excluded from costs considered here. In the proxy models, the fiber-copper cross-over point determines the relative share of fiber in the loop plant. We believe that the reasonable cross-over point should reflect the least cost provision of the supported services rather than the provision of video or advanced services.

43. We recommend that the Commission consider the following criteria in order to evaluate the reasonableness of any proxy model that it would use to estimate the forward-looking economic cost of providing the supported services:

(1) Technology assumed in the model should be the least-cost, most efficient and reasonable technology for providing the supported services that is currently available for purchase, with the understanding that the models will use the incumbent LECs' wire centers as the center of the loop network for the reasonably foreseeable future.

(2) Any network function or element, such as loop, switching, transport, or signaling, necessary to produce supported services must have an associated cost.

(3) Only forward-looking costs should be included. The costs should not be the embedded cost of the facilities, functions or elements.

(4) The model should measure the long-run costs of providing service by including a forward-looking cost of capital and the recovery of capital through economic depreciation expenses. The long run period used should be a period long enough that all costs are treated as variable and avoidable.

(5) The model should estimate the cost of providing service for all businesses and households within a geographic region. This includes the provision of multi-line business services. Such inclusion allows the models to reflect the economies of scale associated with the provision of these services.

(6) A reasonable allocation of joint and common costs should be assigned to the cost of supported services. This allocation will ensure that the forward-looking costs of providing the supported services do not include an unreasonable share of the joint and common costs incurred in the provision of both supported and non-supported services, e.g., multi-line business and toll services.

(7) The model and all underlying data, formulae, computations, and software associated with the model should be available to all interested parties for review and comment. All underlying data should be verifiable, engineering assumptions reasonable, and outputs plausible.

(8) The model should include the capability to examine and modify the critical assumptions and engineering principles. These assumptions and principles include, but are not limited to, the cost of capital, depreciation rates, fill factors, input costs, overhead adjustments, retail costs, structure sharing percentages, fiber-copper cross-over points, and terrain factors. The models should also allow for different costs of capital, depreciation, and expenses for different facilities, functions or elements.

44. The parties have brought three models to our attention in this proceeding. While the models hold much promise, at this time, we cannot endorse a specific model as the tool the Commission should use for calculating costs of supported services.

45. We therefore urge the Commission to conduct a series of workshops at which federal and state staff can work with industry participants to refine the models so that it could become possible to select or create a proxy model that could then be used in calculating universal service support. We recommend that these workshops begin no later than January 1997.

46. The state members of the Joint Board will submit a report to the Commission on the use of proxy models and the application of such models in this proceeding for funding universal service. The report of the state members will be filed prior to a Commission decision in this proceeding on proxy models. The Commission and state members should continue to work cooperatively and remain integrally involved in the development of an acceptable proxy model.

47. While we recommend using forward-looking economic costs calculated through the use of a proxy model to determine high cost support for all carriers, we are concerned that moving small, rural carriers to a proxy model too quickly may result in large changes in the support that they receive. Since rural carriers generally serve fewer subscribers compared to the large incumbent LECs, serve more sparsely-populated areas, and do not generally benefit from economies of scale and scope as much as non-rural carriers, they often cannot respond to changing operating circumstances as quickly as large carriers. We therefore recommend that those carriers not move immediately to a proxy model, but transition to a proxy over six years. For three years, starting on January 1, 1998, high cost assistance, DEM weighting and LTS benefits for rural carriers will be frozen based on historical per line amounts. Rural carriers would then transition over a three year period to a mechanism for calculating support based on a proxy model. Prior to that transition, however, we recommend that the Commission, working with the state commissions, review the proxy model to ensure that it takes into consideration the unique situations of rural carriers. We emphasize our recommendation that, after the transition, the calculation of support for rural telephone companies should be based on a proxy model, although we recognize that alternative support mechanisms, such as competitive bidding, may also promote efficient service provision. Further, we recommend that, on request, any rural carrier should be permitted to elect to use a proxy model to determine its support level, and that any carriers electing to use the proxy model not be allowed to use the embedded cost approach thereafter.

48. The Joint Board recommends, however, that rural carriers be able to move to a proxy-based system earlier if they choose to do so. We recommend that the Commission define ''rural'' as those carriers that meet the statutory definition of a ''rural telephone company.'' See 47 U.S.C. 153(37). In order for the administrator to know which carriers are to receive support payments based on the proxy model or their embedded costs, we recommend that carriers notify the Commission and the state commissions that for purposes on universal service support determinations they meet the definition of a ''rural telephone company.'' Carriers should make such a notification each year prior to the beginning of the payout period for that year. The carriers may also use that notification as the means by which to let the Commission, the state commissions, and the administrator know if they have chosen to voluntarily move to a proxy model before the end of the transition period.

49. We also find that LTS payments constitute a universal service support mechanism. As the Commission noted in the NPRM, LTS payments serve to equalize LECs' access charges by raising some carriers' charges and lowering others'. While some commenters have noted the beneficial purposes currently served by LTS, no commenter argued that LTS was not a support flow.

50. We therefore recommend that beginning in 1998 and continuing to the end of the year 2000, support payments for high cost assistance, DEM weighting and Long Term Support, be frozen for each carrier at the same amounts paid on a per line basis to qualifying carriers. High cost support would be based on the assistance received in 1997, and DEM weighting and LTS benefits received during calendar year 1996. Beginning in the year 2001, and through the year 2003, we recommend that support be gradually shifted to a proxy-based methodology. In the year 2001, support would be based on 75 percent frozen levels and 25 percent proxy; in 2002 support will be based on 50 percent frozen levels and 50 percent proxy; in 2003 support will be based on 25 percent frozen levels and 75 percent proxy. Beginning in 2004 support will be 100 percent based on a proxy methodology. The total period for transition for rural carriers to a proxy based system is six years.

51. Freezing support will encourage rural carriers to operate efficiently because no additional support will be provided for increased costs. We recognize that the number of subscribers served by rural carriers could increase and associated with such increases is an increase in costs. Therefore, we recommend that support not be frozen at a total dollar amount, but instead, at a per line amount. Rural carriers would receive additional support at the same amount per line as the number of subscribers increase. A frozen level of high cost support will prepare these LECs for both their move to a proxy model and the advent of a more competitive marketplace.

52. High cost assistance to carriers with high loop costs that will be paid during 1997 are based on those carriers' 1995 embedded costs. Additionally, loop counts to determine the 1995 average costs per loop for each carrier are based on year-end 1995 loop counts. To determine the amount of frozen high cost support per line for carriers with high loop costs, we recommend that the total amount paid to each carrier during 1997, based on 1995 embedded costs, be divided by the number of loops served at the end of 1995. The amount of high cost assistance to be paid in 1998 will then be the same per line amount paid in 1997 multiplied by the year end loop count for 1996. Calculation of payments would continue in this manner throughout the transition period.

53. Currently, DEM weighting assistance is an implicit support mechanism that is recovered through the switched access rates charged to interexchange carriers by those carriers serving less than 50,000 lines. In order to calculate the per-line DEM weighting benefit, we recommend that the amount of additional revenues collected by each carrier above what would be collected without DEM weighting, be calculated for the calendar year 1996. That amount, divided by the number of loops served at the year-end 1996 would be the basis for the frozen per line support to be paid beginning in 1998. Until December 31, 1997, DEM weighting benefits would continue under the present rules. Although we could have recommended the calendar year 1997 as the basis for determining the frozen per-line amount for DEM weighting benefits during the transition period, we find that sufficient time will be needed for the fund administrator to gather the data and calculate payments before frozen DEM weighting benefits begin in 1998. We chose to use year-end 1996 loop counts because this calculation would have already been made for loop high cost assistance purposes. For 1999, the amount of frozen DEM weighting support would be based on the frozen per line amount multiplied by the number of lines served for the year-end 1997. Calculation of payments would continue in this manner throughout the transition period.

54. LTS payments are currently determined by comparing the amount pool members will receive in SLCs and CCL charges to the pool's projected revenues requirement. In order to determine the frozen LTS payment for the Common Line pool members, we recommend that each member be allocated a percentage of the total LTS contribution from the non-pooling LECs. We recommend that the allocation be made on the basis of each member's common line revenue requirement relative to the total common line pool revenue requirement. We recommend that the frozen LTS payments to pool members during the year ending 1996 and the loop counts at year-end 1996 be used as the historical basis for computing the frozen per line LTS payment beginning in 1998. For 1999, the amount of frozen LTS payments would be based on the frozen per line amount multiplied by the number of lines served for the year-end 1997. Calculation of payments would continue in this manner throughout the transition period.

55. We recommend that the Commission make frozen support payments portable. A CLEC should be allowed to receive support payments to the extent that it is able to capture subscribers formerly served by carriers eligible for frozen support payments or to add new customers in the ILEC's study area. Because we have recommended that frozen support payments be computed on the basis of working loops, ILECs will, under our recommendation, automatically lose frozen support payments for loops serving subscribers lost to a competitor. We find that competition would best be served if the frozen support payment attributable to that line were paid instead to the CLEC that won the subscriber. Likewise, a CLEC should receive support for new customers that it serves in the ILECs study area. Since rural ILECs have the option at any time to convert their support basis to a proxy methodology, we find that a CLEC should also have the opportunity to choose proxy-based support when it enters a rural ILEC's study area.

56. We propose that rural carriers in Alaska and in insular areas not be required to shift to a support system in which support levels are calculated based on a proxy model at this time. While we believe that proxy models may provide an appropriate determination of costs on which to base high cost support, we are less certain that they may do so for rural carriers in Alaska and insular areas. Consequently, we recommend that rural carriers serving Alaska and insular areas should

be able to continue to use embedded costs to determine their costs of offering universal service. We further recommend that this system for rural carriers in Alaska and insular areas be revisited in the future to determine whether changes in proxy models allow them to be utilized effectively in Alaska and insular areas.

57. We recommend that the Commission establish a benchmark to calculate the support that eligible telecommunications providers will receive when a proxy model is used to calculate the costs of providing services designated for support from universal service mechanisms. We believe it is desirable that the benchmark be based on the amount the carrier would expect to recover from other services to cover the cost of providing supported services in rural, insular, and high cost areas, but final determination of the methodology for selecting the benchmark must also consider the revenue base for universal service contributions. Those eligible telecommunications providers for which the cost of providing supported services exceeds the benchmark would be permitted to receive universal service support.

58. We believe that it is desirable for the Commission to set a nationwide benchmark to use in calculating the amount of support eligible telecommunications providers will receive. Final determination of this issue, however, must also take into consideration the contribution base for the federal universal service mechanisms. We recommend that the benchmark the Commission adopts should be easy to administer and should be set to minimize the probability that residential rates would increase while the new support mechanisms are being implemented. The carrier's draw from the federal universal service support mechanism for serving a customer would be based on the difference between the costs of serving a subscriber calculated using a proxy model and the benchmark. A carrier could draw from the fund for providing supported services to a subscriber only if the cost of serving the subscriber, as calculated by a proxy model, exceeds the benchmark.

59. There are essentially three approaches to setting such a nationwide benchmark to be used with the proxy model for calculating support. In setting a benchmark, the Commission could use average revenues per line, average rates, or relative cost. We recommend that the Commission adopt a benchmark based on the nationwide average revenue-per-line. We recommend that the Commission review the benchmark on a periodic basis, and consider the need to make appropriate adjustments.

60. We find that it is advisable to construct two benchmarks, one for residential service and a second for single-line business service, since we are recommending that primary residential and single business lines be supported. The residential benchmark, if ultimately adopted by the Commission, should be set equal to the sum of the revenue generated by local, discretionary, and access services provided to residential subscribers divided by the number of residential lines. The single-line business benchmark should be set equal to the sum of the revenue generated by local, discretionary, and access services provided to single- line business subscribers divided by the number of single-line business lines.

61. Although we recognize that competitive bidding may provide a market-based method for determining support levels, we recommend that the Commission not adopt at this time any specific plan for using competitive bidding to set support levels in rural, insular, and high cost areas. While the record in this proceeding persuades us that a properly structured competitive bidding system could have significant advantages over other mechanisms used to determine the level of universal service support for high cost areas, we find that the information contained in the record does not support adoption of any particular competitive bidding proposal at this time. We recommend that the Commission, together with the state commissions, continue to explore the possibility of using competitive bidding for determining the level of federal universal support.

62. We find that sections 254 and 214(e) and the record developed in this proceeding provide some guidance about how any potential competitive bidding should be structured. We recommend that any competitive bidding system be competitively neutral and not favor either the incumbent or new entrants. Any carrier that meets the eligibility criteria for universal service support should be permitted to participate in the auction. Any competitive bidding proposal must be consistent with the goals and requirements of the 1996 Act, including that universal service support be ''specific, predictable and sufficient.'' Any competitive bidding system adopted should minimize the ability of bidders to collude. Various commenters, for example, urge the Commission to establish and enforce stiff penalties against collusion, while others suggest that the Commission rely on its experience with spectrum auctions to devise protections against collusion. We recommend that any final competitive system be designed to minimize the incentives to collude and that any colluding carrier be subject to stiff penalties.

63. The Joint Board recommends that the Commission set an effective date of January 1, 1998, for the new universal service support mechanism for rural, insular, and high cost areas that we have recommended in this section of the Recommended Decision take effect beginning January 1, 1998. The current universal service support mechanisms operate on a calendar year, and January 1, 1998, will be the beginning of the first calendar year after the Commission adopts rules establishing the new support mechanisms. Starting at that date, carriers other than rural telephone companies would begin to receive support based upon the proxy model.

64. Support for Low-income Consumers. Congress included section 254(j), which provides that ''[n]othing in [section 254] shall affect the collection, distribution, or administration of the Lifeline Assistance Program provided for by the Commission.'' Yet the current Lifeline program is not competitively neutral, nor is it available in all regions of the nation. We find that the provisions of section 254(j) can be reconciled with other portions of section of 254 regarding competitive neutrality and support for low-income consumers in all regions of the nation. As an initial matter, we believe that Congress did not intend for section 254(j) to codify the existing Lifeline program. Had Congress intended for section 254(j) to have that effect, it would have chosen clearer, less equivocal language. Instead, Congress simply provided that nothing in section 254 should affect the collection, distribution, or administration of the program. We therefore conclude that Congress intended, in section 254(j), to give the Joint Board and the Commission permission to leave the Lifeline program in place without modification, despite its inconsistencies with other provisions of section 254 and the 1996 Act generally. We further conclude that a necessary corollary to this interpretation of section 254(j) is that this Joint Board has the authority to recommend, and the Commission has the authority to adopt, changes to the Lifeline program to make it more consistent with Congress's mandates in section 254 if such changes would serve the public interest.

65. We find no statutory basis to recommend continuing to fund the federal Lifeline program in a manner

that places some IXCs at a competitive disadvantage, or that provides no support for low-income consumers in several portions of the nation. We conclude that our recommendations would make universal service support mechanisms for low-income individuals more consistent with Congress's express goals without fundamentally changing the basic nature of the existing Lifeline program. Moreover, this approach is consistent with Congress's expression of approval for the current Lifeline program in section 254(j).

66. The Joint Board agrees with the vast majority of commenters and recommends that, through universal service support mechanisms, low-income consumers should have access to the same services designated for support for rural, insular, and high cost areas. We further recommend that the designated services should be made part of the modified Lifeline Assistance program that we recommend adopting in section. Thus, low-income consumers eligible for Lifeline Assistance would receive, at a minimum, the designated services.

67. The Joint Board recommends that the Lifeline Assistance program for eligible low-income consumers include support for voluntary toll limitation (by which we mean both toll blocking service and toll control service), in addition to the services mentioned above. We recommend, however, that only carriers that currently possess the capability of providing these services be required to provide them to Lifeline-eligible consumers and receive universal service support for such services. Eligible telecommunications carriers that are technically incapable of providing any toll-limitation services should not be required to provide either service, and such an incapability should not affect their designation as eligible telecommunications carriers. We recommend, however, that eligible telecommunications carriers not currently capable of providing these services be required to add the capability to provide at least toll blocking in any switch upgrades (but we do not recommend that universal service support be provided for such switch upgrades). We further recommend that carriers offering voluntary toll-limitation services receive support based on the incremental cost of providing those services.

68. Further, the Joint Board recommends that the Commission prohibit carriers receiving universal service support for providing Lifeline service from disconnecting such service for non-payment of toll charges. This recommendation should not be construed to affect the ability of the states to implement a policy prohibiting disconnection of local service for non-payment of toll charges for non-Lifeline customers.

69. We further recommend, however, that the Commission provide state utilities regulators with the authority to grant carriers a limited waiver of this requirement if the carrier can establish that: (1) it would incur substantial costs in complying with such a requirement; (2) it offers toll-limitation services to its Lifeline subscribers at no charge; and (3) telephone subscribership among low-income consumers in the carrier's service area is at least as high as the national subscribership level for low-income consumers. We recommend that this waiver be extremely limited and that a carrier should be required to meet a very heavy burden to obtain a waiver. Furthermore, we recommend that the waiver would terminate after two years, at which time carriers could reapply for the waiver.

70. The Joint Board recommends modifying the federal Lifeline program to reach low-income consumers in every state. (Hereinafter, ''states'' will refer to all states, territories, and commonwealths within the jurisdiction of the United States.) We further recommend that, in order to be eligible for support from the new national universal service support mechanism pursuant to section 214(e)(1), carriers must offer Lifeline assistance to eligible low-income customers. We are reluctant, however, to recommend mandatory participation by states or carriers in a program that requires states to generate support from the intrastate jurisdiction.

71. In order to reconcile our finding that Lifeline support should be extended to all states with our desire to maximize states' incentives to generate matching intrastate support for the program, we recommend that the Commission eliminate the state matching requirement and provide for a baseline level of federal support that would be available to low-income consumers in all states. In order to ensure adequate Lifeline support in states that choose not to generate intrastate matching funds, we believe this baseline federal support level should exceed the current $3.50. To maximize matching incentives, however, we believe the baseline support level should be less than $7.00. We therefore propose a baseline federal level halfway between the two figures at $5.25, and recommend that the Commission seek additional information on this issue before establishing a precise baseline level. To create further incentives for matching, we recommend that the Commission provide for additional federal support equal to one half of any support generated from the intrastate jurisdiction, up to a maximum of $7.00 in federal support.

72. Although we believe this recommendation will best reconcile our competing objectives of providing adequate nationwide support and maximizing state matching incentives, we are concerned that the implementation of this recommendation could have no direct effect on Lifeline subscribers' rates in many populous states with existing Lifeline programs, and could instead result only in a larger percentage of the total support being generated from federal sources. Therefore we recommend that the Commission seek additional information on ways to avoid this unintended consequence before implementing this recommendation.

73. We also find it essential that the state members of the Joint Board maintain a continuing role in refining specific aspects of the Lifeline program. The state members of the Joint Board will submit a report to the Commission on Lifeline issues. The report of the state members will be filed prior to the Commission's decision on the Lifeline program in this proceeding. Thereafter, the Commission and the state members should continue to work cooperatively and remain integrally involved in refining the Lifeline program.

74. To make the Commission's Lifeline program competitively neutral, the Joint Board recommends that support for eligible low-income consumers no longer be achieved through charges levied on only IXCs. We recommend that the programs be supported by a fund to which all telecommunications carriers that provide interstate service contribute on an equitable and nondiscriminatory basis as a function of their revenues, consistent with sections 254(d) and (e). Thus, for example, LECs, wireless carriers, and other interstate telecommunications service providers would contribute. De-linking Lifeline from the Commission's Part 69 rules would promote competitive neutrality by allowing the participation of carriers who do not charge SLCs, such as CLECs and wireless providers. We conclude that the new funding mechanism that we recommend will be more competitively neutral than the current system, which passes the entire federal burden of low-income support to IXCs, without sacrificing the targeting that has characterized the current program. We also conclude that low-income

consumers will continue to benefit directly under our recommendation.

75. In addition to changing the contribution method for the Lifeline program, we recommend amending the program to enable all eligible telecommunications carriers, not just LECs, to be eligible to receive support for serving qualified low-income consumers. Currently, only ILECs serving eligible low-income consumers can receive support. We find, however, that eligible telecommunications carriers other than ILECs should have the ability to compete to serve low-income consumers and in turn receive Lifeline support in a manner similar to the current program. We recommend that in order to participate, a carrier must demonstrate to the public utility commission of the state in which it operates that it offers a Lifeline rate to qualified individuals. We recommend that the Lifeline rate be the carrier's lowest comparable non-Lifeline rate reduced by at least the $5.25 amount of federal support. We further recommend that support be provided directly to carriers based on the number of eligible consumers they serve under administrative procedures determined by the fund administrator.

76. Currently, state agencies or telephone companies administer customer eligibility determinations pursuant to narrowly-targeted programs approved by the Commission. We recommend that the Commission maintain this basic framework for administering Lifeline eligibility in states that provide matching support for the Lifeline program. We also recommend that the Commission require states that provide matching funds to base eligibility criteria solely on income or factors directly related to income (such as participation in a low-income assistance program). We further recommend that the Commission adopt specific means-tested eligibility standards to apply in states that choose not to provide matching support from the intrastate jurisdiction. Specifically, we recommend that low-income consumers participating in a state-administered, low-income welfare program (and who are not considered dependents for federal income tax purposes, with the exception of dependents over the age of 60) would be eligible for Lifeline assistance.

77. The Joint Board recommends that the Commission adopt the changes to the Link Up program's funding mechanism proposed in the NPRM. We recommend that the Link Up funding mechanism be removed from the jurisdictional separations rules, and that the program be funded through equitable and non-discriminatory contributions from all interstate telecommunications carriers. Funding the program through contributions from all interstate carriers will allow for an explicit and competitively neutral funding mechanism consistent with sections 254 (d) and (e).

78. We recommend that the Commission amend its Link Up rules to make the present level of Link Up support available to qualifying low-income consumers requesting service from any telecommunications carrier providing local exchange service. Support would be available only for the primary residential connection. As amended, the Link Up rules should thus provide that any eligible telecommunications carrier may draw support from the new Link Up funding mechanism described above if that carrier offers to eligible customers a reduction of its service connection charges equal to one half of the carrier's customary connection charge or $30.00, whichever is less. Where the carrier offers eligible customers a deferred payment plan for connection charges, we recommend that the Commission provide support to reimburse carriers for waiving interest on the deferred charges for eligible subscribers as Link Up currently provides for incumbent LECs' charges. To ensure that the opportunity for carrier participation is competitively neutral, we recommend that the Commission's rules be amended to eliminate the requirement that the commencement-of-service charges eligible for support be filed in a state tariff. In the absence of evidence that increasing the level of Link Up support for connecting each eligible customer would significantly further universal service goals, however, we recommend that the level of support for Link Up not be increased.

79. With respect to subscribers' eligibility to participate in the Link Up program, the Joint Board recommends that the same modifications be made to the Link Up program that we have recommended for the Lifeline program. That is, we encourage states to set means-tested eligibility criteria, and we recommend that a federal eligibility ''floor'' be established that would serve as eligibility criteria in states that choose not to define means-tested eligibility criteria of their own. Consistent with some commenters' proposals, we also recommend that the Commission prohibit states from restricting the number of service connections per year for which low-income consumers who relocate can receive Link Up support.

80. We recommend that the Commission implement a national rule prohibiting telecommunications carriers from requiring Lifeline-participating subscribers to pay service deposits in order to initiate service if the subscriber voluntarily elects to receive toll blocking.

81. Issues Unique to Insular Areas. We recognize the special circumstances faced by carriers and consumers in the insular areas of the United States, particularly the Pacific Island territories. We note at the outset that carriers in these areas, like all other carriers, will be eligible for universal service support if they serve high cost areas. We recommend that rural carriers serving high cost insular areas, as well as rural carriers serving high cost areas in Alaska, should continue to receive universal service support based on their embedded costs.

82. We recommend that the Commission take no specific action regarding cost support for toll service to the Northern Mariana Islands at this time, but revisit this issue at a later date. Guam and the Northern Mariana Islands will be included in the North American Numbering Plan by July 1, 1997. To implement section 254(g), the Commission will require interstate carriers serving the Pacific Island territories to integrate their rates with the rates for services that they provide to other states no later than August 1, 1997. (An interexchange carrier must establish rates for services provided to the Northern Mariana Islands and Guam consistent with the rate methodology that it employs for services it provides to other states. Carriers can choose among several ways to integrate the rates for services to these islands, including expanding mileage bands, adding mileage bands or offering postalized rates. A carrier must also offer optional calling plans, contract tariffs, discounts, promotions, and private line services using the same rate methodology and structure that it uses in offering those services to subscribers on the mainland.

83. Once those carriers integrate their rates, the residents of Guam and the Northern Mariana Islands will be able to make 1+ calls to the mainland United States at domestic instead of international rates. Residents of Guam and the Northern Mariana Islands will also have direct access to toll-free (e.g., 800, 888) services. The decision whether to provide toll-free services to a specific area, such as the Pacific Island territories, is a business decision of the carrier's business customer, weighing the cost of toll charges to the islands against the economic benefit of

providing toll free access. Businesses currently make that same determination in deciding in which areas to provide toll free access within the fifty states, and, for business reasons, some of them choose to limit access to certain areas. Similarly, information service providers make the same type of business decision as to whether to locate in a certain area or provide toll-free access to an area. Until the islands join the NANP and are included in carriers' rate averaging, it is difficult for businesses to make such judgments as to whether, and how, to serve the islands.

84. We are concerned that residents of Guam and the Northern Mariana Islands have access to toll free service and information services. We therefore recommend that the Commission revisit the question of comparable access and rates for toll-free and information services at some time after the Pacific Island territories have been included in the NANP and have integrated rates to determine whether there is any need to support these services.

85. Support for Schools and Libraries. We recommend that the Commission adopt a rule that provides schools and libraries with the maximum flexibility to apply their universal service discount to whatever package of telecommunications services they believe will meet their telecommunications service needs most effectively and efficiently.

86. We recommend that the Commission also provide eligible schools and libraries with discounts for Internet access pursuant to section 254(h)(2). These discounts would apply to basic conduit, i.e., non-content, access from the school or library to the backbone Internet network. This access would include the communications link to the ISP, whether through dial-up access or via a leased line, and the subscription fee paid to the ISP, if applicable. The discount would also apply to electronic mail, but any charges for such services would not be subject to the discount discussed herein. Schools and libraries would be permitted to apply the discount to the entire ''basic'' charge by an ISP that bundled access to some minimal amount of content, but only under those circumstances in which the ISP basic subscription charge represented the most cost-effective method for the school or library to secure non-content conduit access to the Internet.

87. We also do not recommend that a discount mechanism for other information services be established at this time.

88. We recommend that the Commission expressly acknowledge that schools and libraries may receive discounts on charges for internal connections. We find that Congress recognized that such connections are a critical element for achieving the congressional purpose of section 254(h), and thus contemplated that schools and libraries receive universal service support for internal connections.

89. Consistent with our recommendation to establish a competitively neutral program for discounting all telecommunications services and Internet access under section 254(h)(2)(A), we recommend that internal connections within schools and libraries, which may include such items as routers, hubs, network file servers, and wireless LANs, but specifically excluding personal computers, be included within the section 254(h) discount program.

90. We recommend that schools and libraries be required to seek competitive bids for all services eligible for section 254(h) discounts. We recommend that schools and libraries be required to submit their requests for services to the fund administrator, who would post the descriptions of services sought on a web site for potential providers to see. The posting of a school or library's description of services would satisfy the competitive bid requirement. We recommend that the lowest corresponding price, defined as the lowest price charged to similarly situated non-residential customers for similar services, constitute the ceiling for the competitively bid pre-discount price. In areas in which there is no competition, we recommend that the lowest corresponding price constitute the pre-discount price. In both cases, the carrier would be required to self-certify that the price offered to schools and libraries is equal to or lower than the lowest corresponding price. We further recommend that schools, libraries, and carriers be permitted to appeal to the Commission, regarding interstate rates, and to state commissions, regarding intrastate rates, if they believe that the lowest corresponding price is unfairly high or low.

91. We recommend that the Commission adopt a rule which provides support to schools and libraries through a percentage discount mechanism. The mechanism would be adjusted for schools and libraries that are defined as economically disadvantaged and those schools and libraries located in high cost areas. In particular, we recommend that the Commission adopt a matrix that provides discounts from 20 percent to 90 percent, to apply to all telecommunications services, Internet access, and internal connections, with the range of discounts correlated to the indicators of economic disadvantage and high cost for schools and libraries. We decline, however, to recommend a 100 percent discount for any category of schools or libraries.

92. We recommend that the following matrix of percentage discounts be applied in the schools and libraries programs. The matrix represents an example of an appropriate distribution of schools across the five discount levels, according to the specified metric for determining the wealth of a school. If a different metric for determining the wealth of a school is ultimately chosen for the purposes of this program, we would expect that a similar distribution of schools across the discount range would be reflected. The principles in determining the final matrix should ensure that the greatest discounts go to the most disadvantaged schools and libraries, while an equitable progression of discounts should be applied to the other categories, keeping within the parameters of 20 percent to 90 percent discounts.

Discount matrix		Cost of service (estimated percent in category)		
		low cost (67%)	mid-cost (26%)	highest cost (7%)
How disadvantaged? based on percent of students in the national school lunch program (estimated percent in category).	< 1 (3%)	20	20	25
	1–19 (30.7%)	40	45	50
	20–34 (19%)	50	55	60
	35–49 (15%)	60	65	70
	50–74 (16%)	80	80	80
	75–100 (16.3%)	90	90	90

93. In addition, we recommend that the Commission set an annual cap on spending of $2.25 billion per year. In addition, any funds that are not disbursed in a given year may be carried forward and may be disbursed in subsequent years without regard to the cap. We further recommend that the Commission establish a trigger mechanism, so that if expenditures in any year reach $2 billion, rules of priority would come into effect. Under the rules of priority, only those schools and libraries that are most economically disadvantaged and had not yet received discounts from the universal service mechanism in the previous year would be granted guaranteed funds, until the cap was reached. Other economically disadvantaged schools and libraries would have second priority for support if additional funds were available at the end of the year. Finally, all other eligible schools and libraries would be granted funding contingent on availability after economically disadvantaged schools and libraries had requested funding. We also recommend that the Joint Board, as part of its review in the year 2001, revisit the effectiveness of the schools and libraries program.

94. We recommend that the statutory definition of ''affordable'' must take into account the cost of service in an area. Thus, we recommend that the Commission take into account the cost of providing services when setting discounts for schools and libraries. To achieve this, we recommend that the Commission consider a ''step'' approach that would calibrate the cost of service in some reasonable, practical, and minimally burdensome manner. Other methods for determining high cost may also be appropriate, and we encourage the Commission to seek additional information and parties' comments on this issue prior to adopting rules.

95. To minimize any additional recordkeeping or data gathering obligations, we seek the least burdensome manner to determine the degree to which a school or library is economically disadvantaged. We recommend that the Commission seek additional information and parties' comments on what measures of economic disadvantage may be readily available for identification of economically disadvantaged non-public schools or, if not readily available, what information could be required that would be minimally burdensome.

96. The national school lunch program reflects the level of economic disadvantage for children enrolled in school. While using a model that measures the wealth of an entire school district may better reflect per-pupil expenditures in that district, we conclude that a model measuring the wealth of students enrolled in school will more accurately reflect the level of economic disadvantage in all of the schools and libraries eligible for universal service support under section 254, including both public and non-public schools. We find, therefore, that using the national school lunch program to determine eligibility for a greater discount appears to fulfill more accurately the statutory requirement to ensure affordable access to and use of telecommunications and other covered services for schools and libraries.

97. If it decides to use the national school lunch program as the model for determining eligibility for a greater discount, we recommend that the Commission require the entity responsible for ordering telecommunications services or other covered services for schools to certify to the administrator and to the service provider the percentage of its students eligible for the national school lunch program when ordering telecommunications and other covered services from its service providers. For schools ordering telecommunications and other covered services at the individual school level, which should include primarily non-public schools, the person ordering such services should certify to the administrator and to the service provider the percentage of students eligible in that school for the national school lunch program. Each school's level of discount will then be calculated by the administrator based on the percentage of students eligible for the national school lunch program.

98. For schools ordering telecommunications and other covered services at the school district level, we seek to target the level of discount based on each school's percentage of students eligible for the national school lunch program, if the national school lunch program is selected as the appropriate measure of economic disadvantage. At the same time, we seek to minimize the administrative burden on school districts. Therefore, we recommend that the district office certify to the administrator and to the service provider the number of students in each of its schools who are eligible for the national school lunch program. We recommend that the district office may decide to compute the discounts on an individual school basis or it may decide to compute an average discount. We further recommend that the school district assure that each school receive the full benefit of the discount to which it is entitled.

99. We recommend that schools or districts do not have to participate in the national school lunch program in order to demonstrate their level of economic disadvantage. Schools or districts that do not participate in the national school lunch program need only certify the percentage of their students who would be eligible for the program, if the school or district did participate. Since libraries do not participate in the national school lunch program, we recommend that they be eligible for greater discounts based on their location in a school district serving economically disadvantaged students. That is, the administrator would average the percentage of students eligible for the national school lunch program in all eligible schools, both public and non-public, within the school district in which a library was located. The library would then receive the level of discount representing the average discount offered to the school district in which it was located. We find that this is a reasonable method of calculation because libraries are likely to draw patrons from an entire school district and this method does not impose an unnecessary administrative burden on libraries. We recommend that the Commission seek additional information and parties' comments on what measures of economic disadvantage may be readily available for identification of economically disadvantaged libraries or, if not readily available, what information could be required that would be minimally burdensome.

100. We also recommend that the Commission adopt a step approach for calculating the level of greater discount available to economically disadvantaged schools and libraries. A step approach would provide multiple levels of discount based on the percentage of students eligible for the national school lunch program.

101. We also recommend that the Commission establish a separate category for the least economically disadvantaged schools, those with less than one percent of their students eligible for the national school lunch program. Those schools should have comparatively sufficient resources within their existing budgets so that they may secure affordable access to services at lower discounted rates. In our effort not to duplicate research already conducted and to tailor greater discounts based on level of economic disadvantage more accurately, we recommend using the Department of Education's five-step breakdown to calculate the greater discounts on telecommunications and other covered

services for economically disadvantaged schools.

102. To the extent that a state desires to supplement the discount financed through the federal universal service fund by permitting its schools and libraries to apply the discount to the special low rates, its actions would be consistent with sections 254(h) and 254(f). Furthermore, we believe that it would also be permissible for states to choose not to supplement the federal program and thus prohibit its schools and libraries from purchasing services at special state-supported rates if they intend to secure federal-supported discounts.

103. We recommend that the Commission not require any schools or libraries that had secured a low price on service to relinquish that rate simply to secure a slightly lower price produced by including a large amount of federal support. No discount would apply, however, to charges for any usage of telecommunications or information services prior to the effective date of rules promulgated pursuant to this proceeding.

104. We recommend that the Commission recognize that it can provide for federal universal service support to fund intrastate discounts. We also recommend that the Commission adopt rules that provide federal funding for discounts for schools and libraries on both interstate and intrastate services to the levels discussed above, and that establishment of intrastate discounts at least equal to the discounts on interstate services be a condition of federal universal service support for schools and libraries in that state. If a state wishes to provide an intrastate discount less than the federal discount, then it may seek a waiver of this requirement.

105. On careful review, we conclude that, despite the difficulties of allocating costs and preventing abuses, the benefits from permitting schools and libraries to join in consortia with other customers in their community outweigh the danger that such aggregations will lead to significant abuse of the prohibition against resale. We recommend that state commissions undertake measures to enable consortia of eligible and ineligible entities to aggregate their purchases of telecommunications services and other services being supported through the discount mechanism, in accordance with the requirements set forth in section 254(h).

106. We recommend that the Commission interpret section 254(h)(3) to restrict any resale whatsoever of services purchased pursuant to a section 254 discount.

107. Section 254(h)(3)'s prohibition on resale, however, would not prohibit either computer lab fees for students or fees for Internet classes. Because these are not services that schools or libraries purchased at a discount under the 1996 Act, they are not subject to the resale ban. Therefore, we recommend that schools and libraries be expected to comply with three bona fide request requirements.

108. First, we find that it would not be unduly burdensome to expect schools and libraries to certify that they have ''done their homework'' in terms of adopting a plan for securing access to all of the necessary supporting technologies needed to use the services purchased under section 254(h) effectively.

109. Second, we recommend that schools and libraries be required to send a description of the services they desire to the fund administrator or other entity designated by the Commission. They can use the same description they use to meet the requirement that most generally face to solicit competitive bids for all major purchases above some dollar amount. The fund administrator or this other entity could then post a description of the services sought on a web site for all potential competing service providers to see and respond to as if they were requests for proposals.

110. Third, we recommend that, to ensure compliance with section 254, every school or library that requests services eligible for universal service support be required to submit to the service provider a written request for services. We recommend that the request should be signed by the person authorized to order telecommunications and other covered services for the school or library, certifying the following under oath: (1) the school or library is an eligible entity under section 254(h)(4); (2) the services requested will be used solely for educational purposes; (3) the services will not be sold, resold, or transferred in consideration for money or any other thing of value; and (4) if the services are being purchased as part of an aggregated purchase with other entities, the identities of all co-purchasers and the portion of the services being purchased by the school or library.

111. We recommend that schools and libraries, as well as carriers, be required to maintain for their purchases of telecommunications and other covered services at discounted rates the kinds of procurement records that they already keep for other purchases. We expect schools and libraries to be able to produce such records at the request of any auditor appointed by a state education department, the fund administrator, or any other state or federal agency with jurisdiction that might, for example, suspect fraud or other illegal conduct. We recommend that schools and libraries also be subject to random compliance audits to evaluate what services they are purchasing and how such services are being used. Such information would permit the Commission to determine whether universal service support policies require adjustment. The fund administrator should also develop appropriate reporting information for the schools and libraries to advise on their progress in obtaining access to telecommunications and other information services.

112. Section 254(h)(1)(B) requires that telecommunications carriers providing services to schools and libraries shall either apply the amount of the discount afforded to schools and libraries as an offset to its universal service contribution obligations or shall be reimbursed for that amount from universal service support mechanisms. We conclude that section 254(h)(1)(B) requires that telecommunications carriers be permitted to choose either reimbursement or offset. Because non-telecommunications carriers are not obligated to contribute to universal service support mechanisms, they would not be entitled to an offset. Non-telecommunications carriers providing eligible services to schools and libraries, therefore, would be entitled only to reimbursement from universal service support mechanisms.

113. We recommend that the Commission adopt rules that will permit schools and libraries to begin using discounted services ordered pursuant to section 254(h) at the start of the 1997 - 1998 school year. We anticipate that they may begin complying with the self-certification requirements as soon as the Commission's rules become effective.

114. Support for Health Care Providers. We find that the record is insufficient to support a recommendation on the exact scope of services, in addition to designated services, that should be supported for rural health care providers. We therefore recommend that the Commission solicit additional information and expert assessment of the exact scope of services that should be included in the list of those additional services ''necessary for the provision of health care in a state.'' We recommend that the Commission seek information on the telecommunications needs of rural health care providers and on the most cost-effective ways to provide these services to rural America. Finally, we recommend that the Commission take

this information and these assessments into account in deciding what services to include as services eligible for universal service support.

115. In reaching its decision on the scope of services to support, we recommend that the Commission include terminating as well as originating services for universal service support in cases where the eligible health care provider would pay for terminating as well as originating services, such as in the case of cellular air time charges.

116. Further, we recommend that the Commission initially designate only telecommunications services as eligible for support as expressly provided under the terms of sections 254(c)(1) and 254(h)(1)(A). We do not, at this time, recommend that the Commission find that customer premises equipment should be eligible for support.

117. After the Commission designates those services eligible for support for rural health care providers, we recommend that the Commission's list of supported telecommunications services be revisited in 2001, when the Commission is scheduled to reconvene a Joint Board on universal service.

118. On the question of determining the urban rate, we recommend that, for each telecommunications service delivered to a qualified health care provider as provided in section 254(h)(1)(A), the Commission should designate as the rate ''reasonably comparable to rates charged for similar services in urban areas in that state'' (the ''urban rate''), the highest tariffed or publicly available rate actually being charged to commercial customers within the jurisdictional boundary of the nearest large city in the state (measured by airline miles from the health care provider's location to the closest city boundary point). We do not recommend an exact definition of the size of population a city must have to qualify as ''large'' for purposes of calculating the urban rate. We leave that determination to the Commission.

119. Because we are recommending that the highest tariffed or publicly available urban rate be used to set the urban rate charged to the health care provider, we think it is important to use for this purpose an urban boundary smaller than a county boundary so as to minimize the possibility of inadvertently including distance-based or lower-density-based surcharges within the comparable urban rate. We also believe that using larger cities for this purpose will increase the likelihood that the rates in those cities will reflect to the greatest extent possible, reductions in rates based on large-volume, high-density factors that affect telecommunications rates. Because we see nothing in the 1996 Act or its legislative history that would prohibit using different definitions of urban for different purposes in section 254, we recommend using, for purposes of determining the ''urban rate in the closest urban area,'' the jurisdictional boundaries of larger cities. We further recommend that the Commission designate by regulation the exact city population size to define the term ''large city,'' that it finds will best balance the factors described in this paragraph.

120. We recommend that the Commission seek additional information on the rate of expansion of local access coverage of ISPs in rural areas of the country and the costs likely to be incurred in providing toll-free access to ISPs for health care providers in rural areas. We also recommend that the Commission take this information into account in deciding what services to include as services eligible for universal service support.

121. We encourage the Commission to solicit additional information on the probable costs that would be incurred in eliminating distance-based and LATA crossing (InterLATA) charges for rural health care providers where such charges are in excess of those paid by customers in the nearest urban areas of the state. We recommend that the Commission take this information into account in deciding whether to include these charges in the list of charges eligible for universal service support.

122. We further recommend that the Commission solicit further information on these topics and make appropriate provision for equalizing any disparities between urban and rural telecommunications rates to health care providers in insular areas.

123. On the question of determining the rural rate, mindful of the Commission's obligation to craft a mechanism that is ''specific, predictable and sufficient,'' we recommend that the rural rate be determined to be the average of the rates actually being charged to customers, other than eligible health care providers, for identical or technically similar services provided by the carrier providing the service, to commercial customers in the rural county in which the health care provider is located. For all purposes associated with determining the rural rate, we recommend that the term ''rural county'' be defined as any ''non-metro'' county as defined by the Office of Management and Budget Metropolitan Statistical Areas (OMB MSA) list, along with the non-urban areas of those metro counties identified in the Goldsmith Modification used by the Office of Rural Health Policy of the Department of Health and Human Services (ORHP/HHS). We also recommend that the rates averaged to calculate the rural rate not include any rates reduced by universal service programs and paid by schools, libraries or rural health care providers.

124. We further recommend that, where the carrier is providing no identical or technically similar services in that rural county, the rural rate should be determined by taking the average of the tariffed and other publicly-available rates charged for the same or similar services in that rural county by other carriers. If no such services have been charged or are publicly available, or if the carrier deems the method described here, as it would be applied to the carrier, to be unfair for any reason, the carrier should be allowed, in the first instance, to submit for the state commission's approval a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner. Where state commission review is not available, the carrier should be allowed to submit the proposed rate to the Commission for its approval. The proposed rate should be supported, justified, reviewed and approved, in the initial submission and periodically thereafter, according to procedures and requirements similar to those used for establishing tariffed rates for telecommunications services in that state.

125. In cases where there are no similar services being provided in the rural county, either by the carrier or by others, and thus no comparable rates to average, or where the carrier concludes that rates derived from this formula are unfair, we find the availability of a cost-based rate application procedure becomes an important backstop. We intend that this procedure will ensure greater fairness to the carrier and further ensure that the support mechanism is more likely to be ''sufficient'' as required by section 254. We note, however, that the record is inadequate on this issue and, accordingly, we recommend that the Commission request additional information prior to adopting final rules, on the costs that would be incurred in supporting necessary upgrades to the public switched network. We also recommend that the Commission seek additional information as to what extent ongoing network modernization, as is currently going forward under private initiatives or according to state-sponsored modernization plans, might make universal service support of this element unnecessary. We further

recommend that the Commission take this information into account in deciding whether to include network upgrades in the list of services eligible for universal service support.

126. We recommend that there be no separate funding mechanism for eligible health care providers and schools and libraries. We further recommend that separate accounting and allocation systems be maintained for the funds collected for the two groups.

127. We recommend that to define ''rural areas'' the Commission use non-metro counties (or county equivalents), as identified by the OMB MSA list of metro and non-metro counties, together with rural areas in metro counties identified in the most currently available ''Goldsmith Modification'' of the MSA list used by the ORHP/HHS. To the extent that the Commission can improve upon these definitions prior to its statutory deadline, by identifying other rural areas in metro counties not identified in the current version of the Goldsmith Modification, we encourage the Commission to do so.

128. We conclude that where all rural areas are entitled to a rate no higher than the highest rate in the closest city, there is no need to make additional provisions for frontier areas, or areas with extra-low population density, as some parties suggest.

129. We recommend creating a mechanism that makes eligible the largest reasonably practicable number of health care providers that primarily serve rural residents and that, due to their location, are prevented from obtaining telecommunications services at rates available to urban customers. We agree, therefore, with the commenters that urge that eligibility to obtain telecommunications services at rates reasonably comparable to rates in the state's urban areas be limited to providers that are physically located in rural areas.

130. We recommend that the Commission attempt no further clarification of the definition of the term ''health care provider.'' We find that section 254(h)(5)(B) adequately describes those entities intended by Congress to be eligible for universal service support. Therefore, we decline to recommend expanding or broadening those categories.

131. We recommend that the Commission allow telecommunications carriers providing services to health care providers at reasonably comparable rates under the provisions of section 254(h)(1)(A), to treat the amount eligible for support, calculated as recommended herein, as an offset toward the carrier's universal service support obligation. We recommend that the Commission disallow the option of direct reimbursement although we recognize that this alternative is within the Commission's authority. We also recommend that carriers be allowed to carry offset balances forward to future years so that the full amounts eligible to be treated as a credit may be applied to reduce their universal service obligation.

132. We recommend that every health care provider that makes a request for universal service support for telecommunications services be required to submit to the carrier a written request, signed by an authorized officer of the health care provider, certifying under oath the following information:

(1) Which definition of health care provider in section 254(h)(5)(B) the requester falls under;

(2) That the requester is physically located in a rural area OMB defined non-metro county or Goldsmith-define rural section of an OMB metro county);

(3) That the services requested will be used solely for purposes reasonably related to the provision of health care services or instruction that the health care provider is legally authorized to provide under the law of the state in which they are provided;

(4) That the services will not be sold, resold or transferred in consideration of money or any other thing of value;

(5) If the services are being purchased as part of an aggregated purchase with other entities or individuals, the full details of any such arrangement, including the identities of all co-purchasers and the portion of the services being purchased by the health care provider.

The certification should be renewed annually.

133. We recommend that the Commission require the universal service fund administrator to establish and administer a monitoring and evaluation program to oversee the use of universal-service-supported services by health care providers, and the pricing of those services by carriers.

134. We also recommend that the Commission encourage carriers across the country to notify eligible health care providers in their service areas of the availability of lower rates resulting from universal service support so that the goals of universal service to rural health care providers will be more rapidly fulfilled.

135. We recommend that health care providers be encouraged to enter into aggregate purchasing and maintenance agreements for telecommunications services with other public and private entities and individuals, provided however, that the entities and individuals not eligible for universal service support pay full rates for their portion of the services. In addition, in these arrangements, we recommend that the Commission's order make clear that the qualified health care provider can be eligible for reduced rates, and the telecommunications carrier can be eligible for support, only for that portion of the services purchased and used by the health care provider.

136. The Commission's adoption of rules providing universal service support under section 254(h)(1) will significantly increase the availability and deployment of telecommunications services for rural health care providers. Furthermore, we conclude that the additional action the Commission will undertake, as discussed above, will be sufficient to ensure the enhancement of access to advanced telecommunications and information services for these and other health care providers.

137. We propose that the Commission establish rules governing the implementation of the support mechanisms recommended above. We anticipate that the fund administrator will begin receiving and processing telecommunications service requests on or about June 1, 1997. Therefore, we recommend that the Commission advise eligible health care providers that they may begin submitting requests to carriers for supported services as soon as practicable after the Commission adopts final rules.

138. The rules should provide that the telecommunications carrier may begin to deploy the requested service as soon as practicable after it has received (1) a written request for an eligible telecommunications service, (2) a properly completed signed and sworn certification as provided in paragraph 92 of this section, (3) approval, if necessary, from the appropriate agency of the rate to be charged for the requested service, and (4) satisfactory payment or payment arrangements for the portion of the rate charged that is the responsibility of the health care provider.

139. Interstate Subscriber Line Charges and Carrier Common Line Charges. We recommend that the Commission adopt the tentative conclusion reached in the NPRM that LTS payments constitute a universal service support mechanism. As the Commission noted in the NPRM, LTS payments serve to equalize LECs' access charges by raising some carriers' charges and lowering others.

140. We recommend that the LTS system no longer be supported via the access charge regime. We recommend that rural LECs continue to receive payments comparable to LTS from the

new universal service support mechanism. Such payments would be computed on a per-line basis for each ILEC currently receiving LTS, based on the LTS payments that carrier has received over a historical period prior to the release of this Recommended Decision. In the interest of competitive neutrality, such payment would also be portable, on a per-line basis, to competitors that win the ILEC's subscribers. To this extent, we recommend that the Commission adopt the position of those commenters favoring the reformation of the LTS mechanism to make it consistent with the 1996 Act. We make this recommendation because we find that LTS payments currently serve the important public interest function of reducing the amount of loop cost that high cost LECs must seek to recover from IXCs through interstate access charges, and thereby facilitating interexchange service in high cost areas.

141. The Joint Board concludes that the current $3.50 SLC cap for primary residential and single-line business lines should not be increased. In the event that the Commission implements a rule assessing carriers' universal service contributions based on all telecommunications revenues regardless of jurisdictional classification, we recommend that the benefits from these CCL reductions be apportioned equally between primary residential and single-line-business subscribers to local exchange service, on the one hand, through a reduction in the SLC cap for those lines, and interstate toll users, on the other hand, through lower CCL charges.

142. Currently, ILECs are required to recover through traffic-sensitive CCL charges those interstate-allocated loop costs not recovered through SLCs and LTS payments. In the NPRM, the Commission referred to the Joint Board questions related to the recovery of these loop costs, and suggested that the current mechanism may constitute a universal service support flow. The Joint Board reaches no conclusion on this question. We believe, however, that it would be desirable for the Commission in the very near future to consider revising the current CCL charge structure so that LECs are no longer required to recover the NTS cost of the loop from IXCs on a traffic-sensitive basis.

143. Administration of Support Mechanisms. We recommend to the Commission that the statutory requirement that ''all carriers that provide interstate telecommunications services'' must contribute to support mechanisms be construed broadly. A broad base of funding will ensure that competing firms make ''equitable and nondiscriminatory contributions'' and will reduce the burden on any particular class of carrier. In order to interpret the term ''telecommunications carrier'' as broadly as possible, we recommend providing a non-exclusive, illustrative list of ''interstate telecommunications.'' We recommend requiring any entity that provides any interstate telecommunications for a fee to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public, to contribute to the fund.

144. Thus, for the purposes of identifying which entities must contribute to universal service support mechanisms, the Joint Board recommends that the Commission adopt a definition of ''interstate telecommunications'' that is similar to the one used for determining TRS support. We recommend that ''interstate telecommunications'' include, but not be limited to, the interstate portion of the following:

cellular telephone and paging, mobile radio, operator services, PCS, access (including SLCs), alternative access and special access, packet switched, WATS, toll-free, 900, MTS, private line, telex, telegraph, video, satellite, international/foreign, intraLATA, and resale services

Generally, telecommunications are ''interstate'' when the communication or transmission originates in one state, territory, possession or the District of Columbia and terminates in another state, territory, possession or the District of Columbia. In addition, under the Commission's rules, if over ten percent of the traffic over a private or WATS line is interstate, then the revenues and costs generated by the entire line are allocated to the interstate jurisdiction.

145. We recommend adoption of the TRS approach, because carriers and the Commission are already familiar with this approach. Contributions to the TRS fund are based on gross interstate telecommunications revenues. We do not recommend that the Commission base contributions to the support mechanism in this manner. We find no reason to exempt from contribution CMRS, satellite operators, resellers, paging companies, utility companies or carriers that serve rural or high cost areas that provide interstate telecommunications services, because the 1996 Act requires ''every telecommunications carrier that provides interstate telecommunications services'' to contribute to support mechanisms. Thus, to the extent that these entities are considered ''telecommunications carriers'' providing ''interstate telecommunications services,'' they must contribute to universal service support mechanisms.

146. We recommend that ''wholesale'' carriers, carriers that provide services to other carriers, should be required to contribute, because such carriers' activities are included in the phrase ''to such classes of eligible users as to be effectively available to a substantial portion of the public.'' The Commission has interpreted this phrase to mean ''systems not dedicated exclusively to internal use,'' or systems that provide service to users other than significantly restricted classes. We recommend adopting the same definition for universal service purposes. Thus, for example, to the extent PMRS MSS providers lease capacity to other carriers, they would be considered carriers that provide interstate telecommunications services.

147. We do not find any reason to define ''for a fee'' as ''for profit'' and recommend that the Commission interpret the phrase ''for a fee'' as meaning services rendered in exchange for something of value or a monetary payment. The Joint Board concludes that the requirement that ''every telecommunications carrier'' contribute towards the support of universal service, requires all interstate telecommunications carriers, including wholesalers and non-profit organizations, to contribute to support mechanisms. Thus, we recommend that the Commission require any entity that provides any of the listed interstate telecommunications services on a wholesale, resale or retail basis to contribute to support mechanisms to the extent that it provides interstate telecommunications services.

148. We recommend that information service providers and enhanced service providers not be required to contribute to support mechanisms. We note, however, that if information or enhanced service providers provide any of the listed interstate telecommunications to the public for a fee, they would be required to contribute to support mechanisms based on the revenues derived from telecommunications services. We also recommend that the Commission re-evaluate which services qualify as information services in the near future to take into account changes in technology and the regulatory environment.

149. With respect to the issue of whether CMRS providers should contribute to state universal service support mechanisms, we find that section 332(c)(3) does not preclude

states from requiring CMRS providers to contribute to state support mechanisms. In addition, section 254(f) requires that all contributions to state support mechanisms be equitable and nondiscriminatory.

150. We recommend that the Commission not require ''other providers of telecommunications'' to contribute to support mechanisms at this time.

151. The Joint Explanatory Statement states that the *de minimis* exemption applies only to those carriers for which the cost of collection exceeds the amount of contribution. Thus, we recommend that the Commission interpret the *de minimis* exemption in this manner. We find that the legislative history of section 254(d) indicates Congress' intent that this exemption be narrowly construed.

152. We recommend that, once it determines the administrator's cost of collection, the Commission exempt carriers for which the contribution would be less than the cost of collection. We suggest that such carriers be exempt from contribution and reporting requirements. We also recommend that the Commission re-evaluate administrative costs periodically once the contribution mechanisms are implemented. We reject requiring flat minimum payments for carriers qualifying for the *de minimis* exemption, because it would be impractical to require a payment that would result in a net loss to the support mechanism.

153. We recommend that contributions be based on a carrier's gross telecommunications revenues net of payments to other carriers.

154. The Joint Board acknowledges that some ILECs may not be free to adjust rates to account for the amount of their contributions to universal service support. We therefore recommend clarifying that, under the Commission's section 251 rules, ILECs are prohibited from incorporating universal service support into rates for unbundled network elements. We note, however, that carriers are permitted under section 254 to pass through to users of unbundled elements an equitable and nondiscriminatory portion of their universal service obligation.

155. We recommend that the Commission clarify that contributions to support mechanisms may be made in cash or through the provision of ''in-kind'' services at ''comparable'' or ''discounted'' rates.

156. The Joint Board recommends that universal service support mechanisms for schools and libraries and rural health care providers be funded by assessing both the intrastate and interstate revenues of providers of interstate telecommunications services. The Joint Board makes no recommendation concerning the appropriate funding base for the modified high cost and low income assistance programs, but does request that the Commission seek additional information and parties' comment, particularly the states, regarding the assessment method for these programs.

157. The 1996 Act reflects the continued partnership between the states and the FCC in preserving and advancing universal service. Together, sections 254(d) and 254(f) contemplate continued complementary state and federal programs for advancing universal service. The Joint Board finds that state universal service programs should continue to play an important role in ensuring universal service to all consumers.

158. While section 254(d) prescribes that every telecommunications carrier that provides interstate communications services shall contribute on an equitable and nondiscriminatory basis to the specific, predictable and sufficient universal service support mechanisms established by the Commission, the statute does not expressly identify the assessment base for the calculation. We recognize that the universal service mechanism established in this proceeding to address the needs of rural, insular and high cost areas will be combined with the existing high cost assistance, DEM weighting, Linkup, Lifeline and Long Term Support funding mechanisms.

159. The appropriate revenue base for collecting support for the high cost and low income programs must be considered in tandem with the distribution of these funds. The current federal high cost and low income programs are supplemented by existing state programs. As we have discussed, the development and composition of a universal service support mechanism based on a proxy model has been deferred for decision at this time, pending the convening of staff workshop sessions. We have also deferred decision on the appropriate revenue benchmark to compute the level of federal universal service support. Similarly, the modifications to the Lifeline program have been tentatively identified and set forth in this Recommended Decision for further comment. We find that it would be premature at this time to conclude how the high cost assistance fund and low income assistance programs should be funded, i.e., whether interstate telecommunications carriers' contributions should be confined to interstate revenues or whether they should include a combination of interstate and intrastate revenues.

160. The Joint Board recommends that the Commission seek further information and parties' comments on the issue of whether both intrastate and interstate revenues of carriers that provide interstate telecommunications should be assessed to fund the Commission's high cost and low income support mechanisms. The role of complementary state and federal universal service mechanisms requires further reflection. An additional consideration is whether the states have the ability to assess the interstate revenues of providers of intrastate telecommunications services to fund state universal service programs and whether that assessment capability would affect the funding base for federal universal service programs. In addition, we recommend that the Commission seek additional information and parties' comment on whether the intrastate nature of the services supported by the high cost and low income assistance programs should have a bearing on the revenue base for assessing funds. We also recommend that commenting parties address the ability to separately identify intrastate and interstate revenues in the evolving telecommunications market where services typically associated with particular jurisdictions are likely to be packaged together. Finally, we ask that parties comment on whether carriers will have an incentive to shift revenues between jurisdictions to avoid universal service contributions.

161. The state members of the Joint Board will include a discussion of the appropriate funding mechanism for the new high cost fund and low income programs as part of the report(s) on each of those programs discussed above. These reports by the state members will be filed prior to the Commission's decision in this proceeding on the high cost and low income funds.

162. With respect to administration of the new federal universal service fund, we recommend, based on the record in this proceeding, that the Commission appoint a universal service advisory board to designate a neutral, third-party administrator. Administration by a central administrator, as opposed to individual state PUCs, would be more efficient and would ensure uniform decisions and rules.

163. Although we do not recommend direct administration by state PUCs, we recommend creating a universal service advisory board, pursuant to the Federal Advisory Committees Act, including

state and Commission representatives, to select, oversee, and provide guidance to the chosen administrator. To expedite the formation of the advisory board and its selection of a permanent administrator, we encourage the Commission to limit the number of advisory board members as much as possible. To ensure that administrative costs are kept to a minimum, we recommend that the universal service advisory board select an administrator through a competitive bidding process. 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 direct financial interest in the support mechanisms established by the Commission. As several commenters note, any candidate must also have the ability to process large amounts of data and to bill large numbers of carriers. We recommend that the advisory board fund the administrator's costs through the support mechanism.

164. The Joint Board strongly advises the Commission to create a universal service advisory board as quickly as possible because it will be responsible for selecting an administrator. The board, in turn, should quickly select an administrator because implementation of the new universal service support mechanisms is of utmost importance to the nation. The Joint Board recommends that the universal service advisory board appoint a neutral, third-party administrator through competitive bidding no later than six months after the board is created. We also recommend that the Commission and the advisory board require the administrator to implement the new support mechanisms no later than six months after its appointment.

165. We recommend that NECA be appointed the temporary administrator of support mechanisms for schools, libraries and health care providers. Prior to appointment as the temporary administrator, we recommend, however, that the Commission permit NECA to add significant, meaningful representation for non-incumbent LEC carrier interests to the NECA Board of Directors. NECA could begin collecting carrier contributions and processing requests for services soon after adoption of the Commission's rules and would continue to do so until the permanent administrator is ready to begin operations. We recommend that, in addition to operating the new support mechanisms for schools, libraries and health care providers, NECA would 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.

166. Conclusion. The 1996 Act instructs the Joint Board and the Commission to adopt a new set of universal service support mechanisms that are explicit and sufficient to preserve and advance universal service. We believe that the recommendations, discussed above, will achieve Congress's goals and will ensure quality telecommunications services at affordable rates to all consumers, in all regions of the Nation.

Initial Regulatory Flexibility Analysis

167. As required by section 603 of the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) that expands on the IRFA prepared for the NPRM of the expected significant economic impact on small entities by the recommendations made by the Federal-State Joint Board in the Recommended Decision (CC Docket No. 96–45). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments that are set forth above. The Secretary shall send a copy of this Recommended Decision including the IRFA set out below to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the RFA.

168. Need for and Objectives of the Recommended Decision: The Telecommunications Act of 1996 (1996 Act) directed the Commission to initiate a rulemaking to reform our system of universal service so that universal service is preserved and advanced as markets move toward competition. Issues related to universal service were referred to a Federal-State Joint Board for recommended decision, pursuant to section 254 of the Communications Act of 1934, as amended by the 1996 Act. On November 8, 1996, the Joint Board released the Recommended Decision that is summarized above and made recommendations on universal service issues including, for example, universal service principles, services eligible for support, support mechanisms for rural, insular, and high cost areas, support for low-income consumers, affordability, support for schools and libraries, health care providers, administration of support mechanisms and common line recovery.

169. The Joint Board's recommendations were intended to assist and counsel the Commission in the creation of an effective universal service support mechanism that would ensure that the goals of affordable, quality service and access to advanced services are met by means that enhance competition. The Joint Board also sought to develop recommendations that could be interpreted easily and readily applicable and, whenever, possible, minimize the regulatory burden on affected parties. The objective of the Public Notice, released by the Commission's Common Carrier Bureau on November 18, 1996, was to provide an opportunity for public comment and to provide a record for a Commission decision on the issues addressed and the recommendations made by the Joint Board in the Recommended Decision.

170. Legal Basis: The Joint Board, in compliance with section 254(a)(1) and section 410(c) of the Communications Act of 1934, as amended by the 1996 Act, adopted the Recommended Decision (CC Docket No. 96–45) to ensure the prompt implementation of section 254, which contains the universal service provisions.

171. Description and Estimate of the Number of Small Entities Affected: For the purposes of an IRFA, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have fewer than 1,500 employees. This IRFA first discusses generally the total number of small telephone companies falling within both of those SIC categories. Then, it discusses total numbers of other small entities potentially affected and attempts to refine those estimates.

172. Consistent with the Commission's prior practice, small incumbent LECs are excluded from the definition of a small entity for purposes of this IRFA. We note that the Commission has consistently certified under the RFA that incumbent LECs are not subject to regulatory flexibility analyses because they are not small businesses. Incumbent LECs do not

qualify as small businesses since they are dominant in their field of operation and hence exempt from treatment as a small business under prong (2) of the SBA test set out *supra*. Accordingly, the use of the terms ''small entities'' and ''small businesses'' does not encompass ''small incumbent LECs.'' We will however, out of an abundance of caution and prudence, include small incumbent LECs in this IRFA to eliminate any possible issue of RFA compliance. We use the term ''small incumbent LECs'' to refer to any incumbent LECs that arguably might be defined by SBA as ''small business concerns.'' In addition, the Commission will take appropriate steps to ensure that the special circumstances of smaller incumbent LECs are carefully considered.

1. Telephone Companies (SIC 4813)

173. *Total Number of Telephone Companies Affected.* Many of the recommendations of the Joint Board, if adopted by the Commission, may have a significant effect on a substantial number of the small telephone companies identified by SBA. The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms would qualify as small entity telephone service firms or small incumbent LECs, as defined above, that may be affected by the Recommended Decision.

174. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the Recommended Decision.

175. *Local Exchange Carriers.* Neither the Commission nor SBA has developed a definition of small providers of local exchange services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the Telecommunications Relay Service (TRS). According to the most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small incumbent LECs that may be affected by the Recommended Decision.

176. *Interexchange Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs nationwide of which we are aware appears to be the data that the Commission collects annually in connection with TRS. According to the most recent data, 97 companies reported that they were engaged in the provision of interexchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 97 small entity IXCs that may be affected by the Recommended Decision.

177. *Competitive Access Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of CAPs nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the TRS. According to the most recent data, 30 companies reported that they were engaged in the provision of competitive access services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 30 small entity CAPs that may be affected by the Recommended Decision.

178. *Operator Service Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of operator service providers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the TRS. According to the most recent data, 29 companies reported that they were engaged in the provision of operator services. Although it seems certain that some of these companies are not independently owned and operated, or have more than 1,500 employees, this IRFA is unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 29 small entity operator service providers

that may be affected by the Recommended Decision.

179. *Pay Telephone Operators.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of pay telephone operators nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the TRS. According to the most recent data, 197 companies reported that they were engaged in the provision of pay telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 197 small entity pay telephone operators that may be affected by the Recommended Decision.

180. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the Recommended Decision.

181. *Cellular Service Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of cellular services. The closest applicable definition under SBA rules is for radiotelephone (wireless) companies. The most reliable source of information regarding the number of cellular service carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the TRS. According to the most recent data, 789 companies reported that they were engaged in the provision of cellular services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 789 small entity cellular service carriers that may be affected by the Recommended Decision.

182. *Mobile Service Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. The closest applicable definition under SBA rules is for radiotelephone (wireless) companies. The most reliable source of information regarding the number of mobile service carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the TRS. According to the most recent data, 117 companies reported that they were engaged in the provision of mobile services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of mobile service carriers that would qualify under SBA's definition. Consequently, we estimate that there are fewer than 117 small entity mobile service carriers that may be affected by the Recommended Decision.

183. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F. As set forth in 47 CFR 24.720(b), the Commission has defined ''small entity'' in the auctions for Blocks C and F as a firm that had average gross revenues of less than $40 million in the three previous calendar years. Our definition of a ''small entity'' in the context of broadband PCS auctions has been approved by SBA. The Commission has auctioned broadband PCS licenses in Blocks A, B, and C. The Commission does not have sufficient data to determine how many small businesses bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auction. Based on this information, we conclude that the number of broadband PCS licensees affected by the Recommended Decision includes, at a minimum, the 90 winning bidders that qualified as small entities in the Block C broadband PCS auction.

184. At present, licenses are being awarded for Blocks D, E, and F of broadband PCS spectrum. A total of 1,479 licenses will ultimately be awarded in the D, E, and F Block broadband PCS auctions, which began on August 26, 1996. Eligibility for the 493 F Block licenses is limited to entrepreneurs with average gross revenues of less than $125 million. We cannot estimate, however, the number of these licenses that will be won by small entities, nor how many small entities will win D or E Block licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective D, E, and F Block licensees can be made, for purposes of this IRFA, we assume that all of the licenses in the D, E, and F Block Broadband PCS auctions may be awarded to small entities that may be affected by the Recommended Decision.

185. *SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. This definition of a ''small entity'' in the context of 800 MHz and 900 MHz SMR has been approved by the SBA. The Recommended Decision may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. For purposes of this IRFA, we assume that all of the extended implementation authorizations may be held by small entities that may be affected by the Recommended Decision.

186. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the Recommended Decision includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses.

Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, for purposes of this IRFA, we assume that all of the licenses may be awarded to small entities that may be affected by the Recommended Decision.

187. *Resellers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies. The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the TRS. According to the most recent data, 206 companies reported that they were engaged in the resale of telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 206 small entity resellers that may be affected by the Recommended Decision.

2. Cable System Operators (SIC 4841)

188. SBA has developed a definition of small entities for cable and other pay television services that includes all such companies generating less than $11 million in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau, there were 1,323 such cable and other pay television services generating less than $11 million in revenue that were in operation for at least one year at the end of 1992.

189. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company,'' is one serving fewer than 400,000 subscribers nationwide. Based on the Commission's most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,468 small entity cable system operators that may be affected by the Recommended Decision.

190. The Communications Act defines a small cable system operator, as ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There were 63,196,310 basic cable subscribers at the end of 1995, and 1,450 cable system operators serving fewer than one percent (631,960) of subscribers. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

3. Rural Health Care Providers

191. Neither the Commission nor SBA has developed a definition of small, rural health care providers. According to the SBA's regulations, hospitals must have annual gross receipts of $5 million or less in order to qualify as a small business concern. There are approximately 3856 hospital firms in the nation, of which 294 have gross annual receipts of $5 million or less (SIC 8060).

192. We recognize that the potential class of health care providers that may be affected by the Recommended Decision is at the same time broader and more refined than the class of providers identified in these SBA figures. On the one hand, the potential class of health care providers that may be affected by the Recommended Decision includes additional categories of providers other than small hospital firms. Additional categories of providers not encompassed within the SBA's figures would include, for example, rural community colleges, medical schools with rural programs, community health centers or health centers providing health care to migrants, local health departments or agencies, community mental health centers, and rural health clinics. On the other hand, the potential class of health care providers that may be affected by the Recommended Decision is more refined than the class of providers identified in the SBA figures to the extent that the former class is comprised only of rural health care providers. Given that it is not yet practicable to identify all rural health care providers that potentially may be impacted by the Recommended Decision, 5 U.S.C. 607, we ask commenters to submit detailed information to assist the Commission in identifying and estimating the number of small entities that may be impacted.

4. Schools and Libraries

193. SBA has defined small elementary and secondary schools (SIC 8211) and small libraries (SIC 8231) as those with under $5 million in annual revenues. The most reliable source of information regarding the total number of kindergarten through 12th grade (K–12) schools and libraries nationwide of which we are aware appears to be data collected by the National Center for Educational Statistics. Based on that information, it appears that there are approximately 112,314 public and private K–12 schools in the United States. It further appears that there are approximately 15,904 libraries, including branches, in the United States. Although it seems certain that not all of these schools and libraries would qualify as small entities under SBA's definition, we are unable at this time to estimate with greater precision the number of small schools and libraries that would qualify as small entities under the definition. Consequently, we estimate that there are fewer than 112,314 public and private schools and fewer than 15,904 libraries that may be affected by the Recommended Decision.

194. Due to the number and complexity of the issues involved in the Recommended Decision, it is not yet practicable or reliable for the Commission to identify all entities potentially impacted by the Recommended Decision. 5 U.S.C. 607. Accordingly, we seek comment on any additional entities that potentially may be affected by the Recommended Decision. Additionally, we seek comment on the general proposals set forth in the IRFA and any other comments concerning the potential impact of the Joint Board's recommendations on small entities.

195. Summary Analysis of the Projected Reporting, Recordkeeping, and Other Compliance Requirements and Significant Alternatives to

Recommended Decisions That Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives:

196. *Structure of the Analysis.* In this section of the IRFA, we analyze the projected reporting, recordkeeping, and other compliance requirements that might apply to small entities and small incumbent LECs if the recommendations made by the Joint Board pursuant to the Recommended Decision are adopted by the Commission. This section also includes a discussion of some of the types of skills that might be needed to meet the recommended requirements. We also describe the steps taken by the Joint Board to minimize the economic impact of its recommendations on small entities and small incumbent LECs, including the significant alternatives considered and rejected. The following analysis is organized under individual section headings that correspond to the sections of the Recommended Decision.

197. Any references to the Recommended Decision contained in this IRFA are intended to provide context for the analysis performed in this IRFA. To the extent that any statement contained in this IRFA is perceived as creating ambiguity with respect to any statement or recommendation made in the Recommended Decision, the statement or recommendation made in the Recommended Decision shall be controlling.

Summary Analysis of Section III

Principles

Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements.

198. The Joint Board recommended no reporting or other compliance requirements relating directly to the six principles enumerated in section 254(b) or relating directly to the additional principle of competitive neutrality, as considered by the Joint Board pursuant to section 254(b)(7).

Significant Alternatives to Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

199. The Joint Board concluded in section III of the Recommended Decision that consumers and businesses would benefit from competitively neutral application of the universal service rules. While a few commenters contended that competition alone would not fulfill the goals of section 254, the Joint Board concluded that competitive neutrality would favorably impact business entities, including smaller entities, by providing for access to quality and advanced services at just, reasonable, and affordable rates. By recommending that the Commission adopt the additional principle of competitive neutrality, the Joint Board sought to ensure a level playing field for all carriers, including smaller entities, insofar as contributions to the universal service fund and disbursements from it would not be biased either in favor of or against one category of carriers over another.

Summary Analysis of Section IV

Definition of Universal Service

Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements.

200. The Joint Board recommended no reporting or recordkeeping requirements in this section. All eligible carriers would be required, however, to provide each of the services designated for universal service support in order to receive such support, subject to certain enumerated exceptions.

Significant Alternatives To Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

201. The Joint Board recommended providing universal service support for all eligible carriers that provide each of the designated services. This recommendation would permit cellular and other wireless carriers and non-incumbent providers, many of which may be small businesses, to compete in high cost areas. The Joint Board specifically did not recommend that the Commission withhold universal service support for cellular providers based on its finding that this approach would impede the competitive entry of certain types of carriers, many of which may be small entities, and, therefore, was inconsistent with the pro-competitive goals of the 1996 Act.

202. The Joint Board made a number of recommendations in this section that were designed to minimize the burdens on smaller entities wishing to become eligible to receive universal service support. For example, state commissions would be permitted to approve transition periods for eligible carriers that would permit carriers, many of which might be smaller entities, that are not currently providing single-party service to make the upgrades necessary to do so. The recommendation would allow certain small, rural carriers to continue to receive universal service support during the time they are making the upgrades that are needed in order to provide single-party service. In making this recommendation, the Joint Board sought to strike a reasonable balance between the need for single-party service in a modern telecommunications network and the recognition that exceptional circumstances may prevent some carriers from initially offering single-party service.

203. The Joint Board also would not require telecommunications providers to provide access to E911 service in order to receive universal service support, but recommended that such access would be supported in high cost areas if a carrier does provide it. Specifically, the Joint Board determined that immediately requiring all eligible carriers to provide access to E911 service effectively would exclude certain wireless carriers, whose networks would require significant technical upgrades. To the extent that this class of cellular and other wireless carriers includes smaller carriers, this recommendation would permit those carriers to receive universal service support notwithstanding their inability to provide access to E911 service.

204. Although other services were suggested by commenters for inclusion in the definition of universal service, the Joint Board declined to expand the definition to include those services at this time. The Joint Board determined that an expansion of the definition to include additional services would have precluded certain carriers that were unable to provide those services from receiving universal service support. The Joint Board concluded that an overly-broad definition of universal service might have the unintended effect of creating a barrier to entry for some carriers, many of which may be small entities, because they would be technically unable to provide all of the designated services.

205. The Joint Board recommended that designated services carried to single-connection businesses in high cost areas also be supported at a reduced rate. Recognizing that the majority of single-connection businesses in high cost areas may be presumed to be small businesses, this recommendation specifically was intended to benefit those small businesses. The Joint Board rejected arguments opposing any support for business connections. The Joint Board also rejected suggestions to extend universal service benefits to multiple-line businesses, recognizing that the cost of service would be more likely to be prohibitive to small, single-connected businesses in high cost areas,

as opposed to larger businesses, without universal service support.

206. The Joint Board declined to recommend the implementation of additional quality of service standards. Rather, the Joint Board recommended that the Commission, to the extent possible, rely on existing data, including the ARMIS data filed by price-cap LECs, to monitor service quality. By avoiding the creation of additional standards, this recommendation would have the effect of minimizing the reporting burden of affected carriers, including that of smaller carriers.

Summary Analysis of Section V

Affordability

Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements.

207. The 1996 Act does not require and the Joint Board did not recommend any new reporting, recordkeeping or other compliance requirements in this section.

Significant Alternatives To Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

208. This section includes recommendations that would directly impact small entities only to the extent that the Joint Board recommended that the states be given primary responsibility for monitoring the affordability of telephone service rates and, in concert with the Commission, ensuring the affordability of such rates. Ensuring the affordability of telephone service rates clearly would have a positive economic impact on small businesses and other small entities.

Summary Analysis of Section VI

Eligibility for Universal Service Support

Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements.

209. The 1996 Act provides that, after the effective date of the Commission's regulations implementing section 254, only carriers designated as eligible carriers pursuant to section 214(e) shall be eligible for specific federal universal service support. Thus, any carrier, including incumbent carriers, that wish to receive universal service support must request to be designated as an eligible carrier by the applicable state commission. Section 214(e) establishes criteria that carriers must meet to be designated as an eligible carrier. The Joint Board recommended in section VI.B that the Commission adopt these statutory criteria, without further elaboration, as the rules for determining whether a telecommunications carrier is eligible to receive universal service support. These statutory criteria require that a telecommunications carrier be a common carrier and offer, throughout a service area designated by the state commission, all of the services supported by federal universal service support either using its own facilities or a combination of its own facilities and resale of another carrier's services. A carrier must also advertise the availability of and charges for these services throughout its service area. Compliance with these statutory requirements may require administrative and legal skills.

Significant Alternatives To Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

210. The Joint Board recommended minimal national rules for eligibility, requiring only that carriers meet the eligibility criteria established by Congress in the 1996 Act. As discussed in section VI.B, the Joint Board rejected arguments calling for more stringent eligibility rules, such as requiring new entrants to comply with any state rules applicable to the incumbent carrier, which could have imposed additional burdens on new entrants, many of which may be small businesses. Additionally, the Joint Board recommended that eligibility rules be technologically neutral, in order to ensure that all telecommunications carriers, regardless of the technology used, could potentially qualify for federal universal service support. The Joint Board also recommended that, for rural telephone companies, the designated service area throughout which they must offer and advertise supported services be the areas in which they currently operate. Finally, where states are responsible for designating a carrier's service area, the Joint Board recommended that the Commission encourage states to designate service areas that do not disadvantage new entrants. The Joint Board concluded that these provisions would minimize reporting requirements and other burdens on small entities.

Summary Analysis of Section VII

High Cost Support

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

211. Small, rural carriers comprise the specific class of small entities that are subject to high cost reporting requirements. The Joint Board recommended that the Commission define ''rural'' as those carriers that meet the statutory definition of a ''rural telephone company,'' pursuant to 47 U.S.C. 153(37). These reporting and recordkeeping requirements would utilize accounting and legal skills.

212. Currently, a LEC is eligible for support if its embedded loop costs, as reported annually, exceed 115 percent of the national average loop cost. The Joint Board recommended that a proxy model for calculating a carrier's costs be adopted by the Commission by May 8, 1997. Thus, beginning January 1, 1998, non-rural carriers would receive support based on the difference between the cost of service as determined by a proxy model and a benchmark amount. However, to minimize the financial impact of this rule change on small entities, the Joint Board recommended that, beginning January 1, 1998, small, rural carriers receive high cost support on a frozen per-line amount based on previous years' reported costs, for years, 1998, 1999, and 2000. Furthermore, small, rural carriers would gradually transition to a proxy model during a three year period, for the years 2001, 2002, and 2003. (Small, rural carriers serving high cost areas in Alaska and insular areas would not transition to proxy models at that time, but rather would continue to receive support based on the frozen per-line amount until further review.) This six-year transition period for small, rural carriers would enable small carriers to adjust their operations in preparation for the use of proxy models. In order for small, rural carriers to receive high cost support based on their frozen embedded costs, they would be required to report the number of lines they serve at the end of each year.

213. Since the new support mechanism for small, rural carriers would be based on previous years' frozen embedded costs, the carriers would no longer have to report each year's embedded costs. Thus, the Recommended Decision would require less reporting and recordkeeping for small, rural carriers. Accordingly, the Joint Board anticipated that those entities' cost of compliance with reporting and recordkeeping requirements would be less than what they currently incur. Since large entities also would have to report the number of lines they serve in order to receive support under a proxy model, these requirements would not affect small entities disproportionately.

Significant Alternatives To Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

214. Commenters offered a number of alternative methodologies, including continuing the current embedded cost methodology, providing support based on combined loop and switching costs, limiting allowable costs, eliminating *de minimis* support lowering payout percentages, readjusting study areas, and capping support levels. Although these small, rural carriers may receive more support under the current embedded cost methodology, the Joint Board rejected that proposal as a long-term solution based on its finding that the current system promotes economic inefficiencies and is inconsistent with the principles of the 1996 Act. The remaining alternatives, however, would result in even lower support levels than the methodology recommended by the Joint Board. By transitioning small, rural carriers to a proxy model over a six year period, the Recommended Decision's proposed methodology for calculating support for small, rural carriers would minimize the adverse effects of an immediate, unplanned shift to a proxy model.

Summary Analysis of Section VIII

Support for Low-Income Consumers

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

215. The Joint Board recommended that, in order to participate in the Lifeline program, carriers would have to demonstrate or, in some cases, continue to demonstrate, to the public utility commission of the state in which they operate that they offer a Lifeline rate to qualified individuals. In addition, carriers participating in Lifeline would be required to submit certification applications to the new federal fund administrator. State agencies and carriers participating in Lifeline would administer customer eligibility determinations. These recommended reporting and recordkeeping requirements may require clerical and administrative skills.

Significant Alternatives To Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

216. The Joint Board recommended that all eligible telecommunications carriers now participate in Lifeline. To participate in the Lifeline program, carriers would be required to keep track of the number of their Lifeline customers and to file information with the federal fund administrator. Based on the Commission's prior experience administering Lifeline, the Joint Board believed that such a requirement would not impose a significant burden on small carriers due to the insubstantial amount and general accessibility of the information. Accordingly, the Joint board did not anticipate that this recommendation would impose a significant burden on small carriers.

Summary Analysis of Section IX

Insular Areas

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

217. The 1996 Act does not require and the Joint Board did not recommend any new reporting, recordkeeping or other compliance requirements in this section.

Significant Alternatives To Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

218. The Joint Board did not make any recommendations at this time which uniquely impact small entities in insular areas. The Joint Board recommendations in other areas, such as high cost support and support for schools and libraries, would apply to insular areas as well as to the mainland, however. We therefore tentatively conclude that this section of the Recommended Decision on issues unique to insular areas will not have a significant economic impact on a substantial number of small entities.

Summary Analysis of Section X

Schools and Libraries

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

219. The Joint Board recommended requiring service providers to self-certify, to the fund administrator, that the price offered to schools and libraries would be no more than the lowest price charged to similarly situated non-residential customers for similar services. This requirement was designed to ensure that schools and libraries would receive the lowest pre-discounted price available in the marketplace for someone with their needs. The Joint Board also recommended requiring service providers to keep and retain careful records of how they have allocated the costs of shared facilities used by consortia to ensure that only eligible schools and libraries derive the benefits of section 254(h) discounts and that no prohibited resale occurs.

220. The Joint Board recommended that, for schools ordering telecommunications services, the person ordering such services for the individual school or school district should self-certify to the fund administrator and to the service provider the number of students in each of its schools who are eligible for the national school lunch program or other comparable indicator of economic disadvantage ultimately selected by the Commission. This requirement arises in the context of determining which schools are eligible for the greater discounts to meet the statutory requirement that ''affordable'' access be provided.

221. The Joint Board also recommended that schools and libraries self-certify, to the fund administrator, that they will be able to deploy any necessary hardware, software, and wiring, and to undertake any necessary teacher training required to use the services ordered pursuant to section 254(h). This requirement would help ensure that schools and libraries avoid the waste that might arise if schools and libraries ordered inexpensive services before they realized what other resources they needed to be able to use those services effectively.

222. The Joint Board recommended requiring schools and libraries to send a description of the services they desire to the fund administrator or other entity designated by the Commission. The fund administrator or other entity would then post a description of the services sought on an Internet website or some similar location for all potential competing service providers to review. The Joint Board concluded that this requirement would help achieve Congress's desire that schools and libraries take advantage of the potential for competitive bids and, therefore, would satisfy the competitive bid requirement the Joint Board recommended imposing on schools and libraries.

223. The Joint Board recommended that, to ensure compliance with section 254, every school and library that requests services eligible for universal service support should be required to submit to the service provider a written request for services. The Joint Board recommended that the request should be signed by the person authorized to order telecommunications and other covered services for the school and library, self-certifying the following under oath: (1) the school or library is an eligible entity under section 254(h)(4); (2) the services requested will be used solely for educational purposes; (3) the services will not be sold, resold, or transferred in consideration for money or any other thing of value; and (4) if the services are being purchased as part of an aggregated purchase with other entities, the identities of all co-

purchasers and the portion of the services being purchased by the school or library.

224. The Joint Board recommended requiring schools and libraries, as well as carriers, to maintain records for their purchases of telecommunications and other covered services at discounted rates, similar to the kinds of procurement records that they already keep for other purchases. The Joint Board expected that schools and libraries should be able to produce such records at the request of any auditor appointed by a state education department, the fund administrator, or any other state or federal agency with jurisdiction to review such records for possible misuse. The Joint Board believed that these reporting and recordkeeping requirements would be necessary to ensure that schools and libraries receive the discounted telecommunications services for the purposes intended by Congress.

225. Similarly, the Joint Board recommended that schools and libraries that desire additional support due to their location in a high cost area be permitted to demonstrate this by providing the necessary information to show that they meet the Commission's high cost standards.

Significant Alternatives To Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

226. Although service providers would be required to self-certify to the fund administrator that the prices they charged to eligible schools and libraries were no more than the lowest price charged to similarly situated non-residential customers for similar services, this requirement should be minimally burdensome, given that service providers could be expected to review the prices they charged to similarly situated customers when they set the price for schools and libraries. The Joint Board expressly rejected suggestions that it require all carriers to offer services at total service long-run incremental cost levels, due to the burdens it would have created. Similarly, given that schools and libraries that form consortia with non-eligible entities would need to inform the service provider of what portion of shared facilities purchased by the consortia should be charged to eligible schools and libraries (and discounted by the appropriate amounts), it should not be burdensome for carriers to maintain records of those allocations for some appropriate amount of time.

227. With respect to service providers, the Joint Board specifically rejected a suggestion to interpret ''geographic area'' to mean the entire state in which a service provider served. This could have forced service providers to serve areas of a state that they were not previously serving, thereby unreasonably burdening small carriers that were only prepared to serve some small segment of a state. The Joint Board also rejected requirements that carriers notify customers of the availability of discounts, recommending that the Commission only recommend that carriers provide such notification, rather than requiring them to do so.

228. Schools and libraries should not be significantly burdened by the requirement that they certify that (1) they are eligible for support under section 254(h)(4); (2) the services requested are used for educational services; and (3) that such services will not be resold. Assuming that schools and libraries would need to inform carriers about what discount they are eligible for to receive that discount, there should be no significant burden imposed by requiring them to self-certify that they would satisfy the statutory requirements that Congress imposed. While the requirement that they disclose how shared facilities are used by the members of a consortia, if they form one, may be somewhat complicated, the Joint Board found that the members of the consortia would need to allocate such costs to determine which party was responsible for what portion of the bill, even without any discount. Given that such allocations would be undertaken for that reason, the Joint Board concluded that it would not be burdensome to require schools and libraries to disclose those allocations when submitting their certification of eligibility. In fact, schools that found such reporting to be burdensome could avoid such consortia, but the Joint Board found it desirable, however, to provide small schools and libraries to join with other customers, including large commercial customers, to enable them to enjoy discounts comparable to other larger customers.

229. A requirement that schools and libraries submit a description of the services and facilities they desire to purchase at a discount to the administrator or other designated entity should also be minimally burdensome. The Joint Board's understanding was that school and library boards generally already require schools and libraries to seek competitive bids for substantial purchases and this forces them to create a description of their purchase needs. The Joint Board found that it would be only minimally burdensome to require schools and libraries to submit a copy of that description to the fund administrator. It further found that this requirement would be much less burdensome than requiring schools and libraries to submit a description of their requests to all telecommunications carriers in their state, as proposed by one commenter. It also would be less burdensome than a requirement that they demonstrate that schools and libraries have employed a competitive bidding process.

230. The Joint Board concluded that it would not be burdensome to require schools and libraries to self-certify that they have a plan for deploying any necessary resources to be able to use their discounted services and facilities effectively. It anticipated that few schools or libraries would propose to spend their own money for discounted services until they believed that they could use the services effectively. Therefore, simply requiring them to certify that they had done such planning would be the least burdensome way to ensure that schools and libraries were aware of the other resources they would need to procure before ordering discounted telecommunications services and facilities. The Joint Board anticipated that the burden here would be particularly light, given the development of clearinghouses of information for schools and libraries on the Internet. The Joint Board found this alternative significantly less burdensome than the proposed requirement that schools and libraries secure outside approval of their technology plans from a government entity before they could receive any support.

231. The Joint Board also tentatively concluded that the least burdensome manner for schools and libraries to demonstrate that they are disadvantaged would be to self-certify to the fund administrator and to the service provider the portion of students in their school eligible for the national student lunch program, although the Joint Board remained open to other comparable indicators of economic disadvantage that might be less burdensome or sufficiently more precise as to justify any additional burden. The Joint Board found that the national student lunch program appears to be the most widely known and easily applied mechanism for achieving the goal of identifying disadvantaged schools and libraries, despite its flaws, and anticipated that the burden it would create for schools and libraries that did not otherwise participate in the national student lunch program would be minimal. Schools and libraries that preferred not to provide information about how

disadvantaged they were would still qualify for a recommended 20% discount on eligible purchases.

232. The Joint Board also found it reasonable to expect schools and libraries that desire additional support due to their location in a high cost area to demonstrate this by providing the necessary information to show that they meet the Commission's high cost standards. Finally, the Joint Board found that requiring schools and libraries to retain records of their purchases of services and facilities under this program for an appropriate amount of time would not be unreasonable.

Summary Analysis of Section XI

Health Care Providers

Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements.

233. The 1996 Act provides in section 254(h)(1)(A) that a telecommunications carrier providing service shall be entitled to have an amount equal to the difference, if any, between the rates for services provided to health care providers for rural areas in a state and the rates for similar services provided to other customers in comparable rural areas in that state treated as a service obligation as part of its obligation to participate in the mechanisms to preserve and advance universal service. The Joint Board recommended that every health care provider, including small entities, that makes a request for universal service support for telecommunications services be required to submit to the carrier a written request, signed by an authorized officer of the health care provider, certifying certain information. The Joint Board recommended that this certification be renewed annually.

234. In formulating a recommendation as to the method for ensuring that requests are bona fide, the Joint Board was mindful of choosing a method that minimizes, to the extent consistent with section 254, the administrative burden on health care providers. Therefore, the Joint Board sought to recommend the least burdensome certification plan that would provide safeguards that are adequate to ensure that the supported services would be used lawfully and for their intended purpose.

235. The Joint Board recommended that the Commission require the universal service fund administrator to establish and administer a monitoring and evaluation program to oversee the use of universal service support to health care providers and the pricing of those services by carriers. This compliance program would be necessary to ensure that services are being used for their intended purpose, that requesters are complying with certification requirements, that requesters are otherwise eligible to receive universal service support, that rates charged comply with the statute and regulations and that prohibitions against resale or transfer for profit are strictly enforced.

236. The Joint Board recommended that the Commission encourage carriers across the country to notify eligible health care providers in their service areas of the availability of lower rates resulting from universal service support so that the goals of universal service to rural health care providers would be more rapidly fulfilled.

237. The Joint Board recommended using rates publicly filed or obtained in the ordinary course of Commission proceedings to determine the rural as well as the urban rate. The Joint Board specifically rejected any suggestion that rates not publicly available should be required to be disclosed in order to implement a universal service mechanism because it found this method to be excessively burdensome.

238. The Joint Board recommended that a sufficient audit program be established to monitor and evaluate the use of supported services in aggregated purchase arrangements. The Joint Board emphasized that the qualified health care provider could be eligible for reduced rates, and the telecommunications carrier could be eligible for support, only on that portion of the services purchased and used by the health care provider. Accordingly, the carrier would have to keep appropriate records.

Significant Alternatives To Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

239. The Joint Board considered several certification plans suggested by commenters. It sought to recommend the least burdensome certification plan that would provide adequate safeguards to ensure that the supported services are being used for their intended purpose. The Joint Board rejected a five-component plan because it was too expensive and burdensome. It also rejected a suggestion that certification include verification of the existence of a technology plan and a checklist of other information helpful in tracking universal service. Although such plans might be useful in a discount plan where disincentives to overpurchasing are needed, the Joint Board found that such a requirement would be unnecessarily burdensome where health care providers would be required to invest substantial resources in order to pay urban rates for these services. The Joint Board also rejected suggestions that health care providers be required to certify that hardware, wiring, on-site networking and training would be deployed simultaneously with the service. Finally, the Board rejected a proposal that the financial officers of health care provider organizations be required to attest under oath that funds have been used as intended by the 1996 Act, because it found that the pre-expenditure affidavit described above, which would be submitted to the carrier along with the request for services, would be sufficient under these circumstances.

240. The 1996 Act provides that a telecommunications carrier shall provide telecommunications services to any public or non-profit health care provider at rates that are reasonably comparable to rates charged for similar services in urban areas in that state. In the NPRM, the Commission stated its intention to minimize, to the extent consistent with section 254, the administrative burden on regulators and carriers. Thus, the Joint Board recommended that the urban/rural rate differential be based on the rates charged for similar services in the urban area closest to the health care provider's location. The Joint Board believed that this method would be easy to use and understand. Thus, it complies with the Joint Board's guidelines that implementation of universal service support mechanisms be fashioned to minimize administrative burdens. Because it would involve a one-step process, this method would be less administratively burdensome than a competitive bidding system or a process based on the current Lifeline assistance program. This method also was deemed preferable to plans that would require obtaining information about private contract rates, which are proprietary and not obtainable without elaborate confidentiality safeguards.

241. The Joint Board recommended using the Office of Management and Budget's Metropolitan Statistical Area method of designating rural areas along with the Goldsmith Modification because it would meet the ''ease of administration'' criterion. Since lists of MSA counties and Goldsmith-identified census blocks and tracts already exist, updated to 1995, any health care provider could easily determine if it were located in a rural area and, therefore, whether it would meet the test of eligibility for support.

Summary Analysis of Section XII

Subscriber Line Charges and Carrier Common Line Charges

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

242. The Joint Board's recommendations regarding the interstate subscriber line charge and carrier common line charges would not impose any additional reporting requirements on any entities, including small entities. These charges currently exist. Although the Joint Board recommended changes in the amounts of the charges, the recommended changes would have no impact on the information collection requirement, and would not extend the charges to additional carriers.

Significant Alternatives To Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

243. Because the SLC and CCL charges would recover ILECs' costs for portions of their network, reporting requirements were deemed necessary to track the costs and allow for their recovery. No alternatives were presented that would have eliminated or substantially reduced those reporting requirements. The Joint Board's recommendation has no impact on the information collection requirement, and would not extend the charges to any additional carriers.

Summary Analysis of Section XIII

Administration

Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements.

244. Section 254(d) states ''[t]hat all telecommunications carriers that provide interstate telecommunications services shall make equitable and nondiscriminatory contributions'' toward the preservation and advancement of universal service. The Recommended Decision would require all telecommunications carriers that provide interstate telecommunications services to contribute to the universal service support mechanism. In order to compute carrier contributions, carriers must submit an annual universal service worksheet. The worksheet would require all carriers to submit information relating to revenues derived from telecommunications services and their payments made to other telecommunications carriers for telecommunications services to the administrator of the support mechanism. After receiving the worksheet, the administrator would calculate each carriers' contribution and bill each carrier. Carriers that provide services to schools, libraries and health care providers might be eligible to receive a credit against their contribution. Carriers seeking a credit would have to submit additional information on a monthly basis regarding the services provided at less than cost to the administrator in order to receive the credit. Approximately 3,500 telecommunications carriers would be required to submit revenue and payment information. The estimated burden on the respondent for filling out the worksheet would be 4 hours and for those submitting monthly information regarding the schools, libraries, and health care providers, 1 hour. These tasks may require some legal and accounting skills.

245. The Joint Board recommended that certain carriers be exempted from the contribution requirement when their contribution is determined to be *de minimis* under section 254(d). The Board concluded that the *de minimis* exemption should apply where the administrator's cost of collecting the contribution exceeds the carrier's contribution. Exempt carriers would not be required to submit an annual worksheet. The Joint Board anticipated that this recommendation would provide relief to many small entities qualifying under the *de minimis* exemption. The Joint Board sought to limit the information requirements to the minimum necessary for evaluating and processing the application and to deter against possible abuse of the process.

Significant Alternatives To Recommended Decisions Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

246. The Joint Board determined that small carriers should not be given preferential treatment in the determination of contributions to the universal service support mechanism solely on that status given section 254(d)'s explicit directive that every telecommunications carrier that provides interstate telecommunications services shall contribute to the preservation and advancement of universal service. The Joint Board considered the suggestions of commenters regarding various graduated contribution schemes that would favor small entities. It rejected these suggestions based on the language of the statute, legislative history and the regulatory burdens that such graduated schemes would entail. The Joint Board further considered commenter suggestions that small carriers be exempted from contribution on the basis of the *de minimis* provision of section 254(d). It rejected these suggestions on the basis of the legislative history surrounding section 254(d) which provides that the *de minimis* exemption should be limited to those carriers for whom the cost of collecting the contribution exceeds the amount of the contribution. The Joint Board concluded that expansion of the definition of *de minimis* to include ''small'' carriers would violate the pro-competitive intent of the 1996 Act and require complex administration and regulation to determine and monitor eligibility for the exemption. The Joint Board believed that small entities would benefit under the *de minimis* exemption as interpreted in the Recommended Decision without an explicit exemption for all small entities.

247. Federal rules that may duplicate, overlap, or conflict with the Recommended Decision. None.

Recommending Clauses

248. For the reasons discussed in this Recommended Decision, this Federal-State Joint Board, pursuant to section 254(a)(1) and section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 254(a)(1), 410(c), recommends that the Federal Communications Commission adopt the proposals, as described above, implementing new section 254 of the Telecommunications Act of 1934, as amended, 47 U.S.C. 254.

249. The Joint Board further recommends that parties submitting any comments or additional information in this docket be required to serve each member of the Federal-State Joint Board and the Joint Board staff. These submissions should be served in accordance with the service list attached.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Appendix I—Analysis of Proxy Models

1. We have briefly discussed the criteria that the Commission should consider in evaluating the reasonableness of using a proxy model to determine the level of universal service support a carrier should receive for a particular geographic area. In this Appendix, we highlight some of the issues raised by commenters, differences between the models, and the results each model produces. At the workshops that we have recommended that the Commission conduct, we expect that model proponents would be prepared to discuss the relative merits of each model, the criticisms raised by commenters, and the major causes of the substantial differences between the size of

the high cost assistance support derived by the models.

2. As we have discussed, the proxy model must rely on the forward-looking economic cost of developing and operating the network facility and functions used to provide services supported under Section 254(c)(1). Costs for providing universal service should be based on the most efficient technology that can be deployed using the incumbent local exchange carrier's (LEC) current wire-center locations. For the most part, we believe that the useful aspects of ''forward-looking'' approach are captured by the least cost concept. To the extent that reliable new technologies represent the least cost method for providing the supported services, they should be incorporated in the model. Firms in a competitive market may well choose to place facilities with the capability of providing a number of competitive services beyond the supported services. To the extent that this is true, the network we are modelling may depart from that which a firm may choose to install. However, to the extent that new technologies are necessary to provide a platform for a number of other competitive services, they should not be included in the model. The model should be sufficiently flexible to incorporate new technologies as the cost of these facilities falls such that they become the most efficient way to provide the supported services. In addition, the model must be sufficiently flexible to include the functionalities necessary to provide an evolving set of supported services.

3. *Model Assumptions and Results—Demand.* We agree that the models should reflect the impact on costs of the number and distribution of residential and business lines. The models start with an assignment of one residential line to each household in every census block group (CBG) reported in the 1990 Census. The Hatfield model uses recent Census estimates to update the 1990 Census values. Because not all households have telephone service and some households have more than one line, the models are calibrated to match state and study area residential demand totals. Currently, the models use data on employees per CBG to assign the relative number of business lines per CBG. Because the ratio of business telephones to employees is not constant across all industries, a model used for calculating universal service support would need to include a better indicator of business lines per CBG. Numerous commenters have reported unexplained variations between model line demand and expected line demand. The models should attempt to simulate the actual location of households and the placement of facilities to reach those households through a technically feasible route.

4. *Loop Investments.* Loop investments, i.e., outside plant, include the investments in cable and wire from an end user's home or business to the telephone company central office. They also include the investment in structures that support the cable and wire, such as poles and conduits, and the cost of placing the cable and wire. The models provide different estimates of loop investment because of different assumptions regarding fill factors, terrain impacts, structure sharing and the fiber/copper cross-over point. For the reasons set forth below, we believe that these inconsistencies must be resolved in order for the models to provide reasonable estimates of loop investments. Furthermore, the models should more accurately reflect the network topography necessary to serve an area. For example, many rural areas are extremely high cost regions which the models currently may not adequately represent. If the model does not accurately account for extreme geographic or climatic conditions, it may underestimate support necessary to serve these ares and may put continued service at risk.

5. A fill factor represents the percentage of the loop facility that is being used. Fill factors must be below 100 percent because it is necessary to have reserve capacity to replace damaged facilities and serve new demand. Because it is cheaper to build plant in discrete increments rather than adding one loop at a time, fill factors are generally lower if there is an anticipation of growth. In residential markets, telephone companies traditionally place additional or spare distribution plant so customers could purchase more than one line. In business markets, many telephone companies may increase loop investment as part of a strategy to provide Centrex service. These practices lower the fill factors. The original BCM uses fill factors lower than those in the Hatfield model. BCM2, however, uses fill factors that are very similar to the Hatfield estimates. In response to the Common Carrier Bureau's information request, the models' proponents indicate that the fill factors that are calculated as ratio of demand divided by the number of loops constructed by the models are less than the input fill factors. This occurs because cable can be purchased only in increments, such as 100 pair cable, and therefore, will always exceed the required demand.

6. Terrain impacts refer to the effect of soil composition, the level of the water table and slope characteristics. BCM2 develops unique factors for 54 different combinations of terrain impacts. It appears that changes in terrain impacts are responsible, in part, for the increase in BCM2 investment relative to the BCM investment. The Hatfield model incorporates adverse terrain conditions by increasing the loop length by 20 percent rather than estimating the impacts of each terrain characteristic. Detailed documentation to support the terrain-impact-input analysis is essential to an evaluation of the reasonableness of these assumptions.

7. Structure sharing refers to the practice of sharing investments with other utilities in poles, trenches and conduits. The Hatfield model assumes that structures are shared equally by telephone, electric and cable companies; this assumption reduces the assumed investment in structures to one third of their estimated cost. In contrast, BCM2 assumes that the telephone company is responsible for 100 percent of the structure costs. The difference in the sharing assumption accounts for approximately 13 to 15 percent of the difference in the model's forward-looking cost estimate for high cost areas. We are unconvinced that sharing exists to the extent the Hatfield model presumes, but we do not conclude, as do the proponents of the BCM2, that the cost of structures is never shared among the utilities. The model proponents should be prepared to supplement their current filings with documentation that supports their position regarding this issue as well as the related issue of whether the percentage of sharing is a function of the type of structure, e.g., is there more sharing of poles than conduit?

8. The fiber-copper cross-over point refers to choice of using copper or fiber in the feeder plant. Each model specifies a default loop length. It then assumes that, if the loop is greater than the default length, the feeder plant will be fiber and if the loop is less than the default length, the feeder plant will be copper. The cross-over point should be based on engineering practice. Neither model proponent submits studies to support the engineering practice it assumed. Commenters show that assumptions about this practice can lead to different costs. We note that an examination of both model results shows that over 50 percent of the lines will be served by digital loop carrier connected to central offices by fiber, while currently less than five percent of lines use that type of facility. We believe that our forward looking cost principles would require a determination of whether either of the engineering practices posited in the models is the least-cost method of placing loop facilities.

10. *Switching Investment.* Switching investments include the cost of the switch, distribution frame, power expenses and the wire center building. The models use only digital switches. The BCM2 proponents allege that they have placed host, stand alone, and remote switches in wire centers according to the current placement of such switches. The Hatfield model uses only host switches. Commenters claim that these assignments do not reflect the forward-looking cost of switching. We share the commenters' concern regarding which type of switch, host, stand-alone or remote is assigned to each wire center and suggest that further work by interested parties would clarify this issue. We also have concerns regarding whether switches are included in the models that accurately reflect switching needs, particularly in sparsely populated areas. These concerns should be addressed.

11. Obtaining non-proprietary estimates of the cost of switches is difficult. The proponents of the Hatfield model and the BCM2 obtained switch cost estimates from several sources. The BCM2 switch input costs are lower than those in BCM and now approach the switch cost used by the Hatfield model.

Moreover, the switching costs reported in the information requests for each of the three study areas, PacTel of California, GTE of Arkansas, and Southwestern Bell of Texas, are very similar.

12. The Hatfield model assigns over 80 percent of the switch cost to supported universal services and BCM2 assigns over 90 percent of the switch to services that are supported. These percentages are greater than the ratio of local usage to total usage. These assignments are higher than the usage ratio because certain switch components, such as the processor, are allocated solely to the provision of supported universal services. We suggest that assignment of switch costs be reviewed to determine whether a more accurate assessment of costs be allocated to universal support mechanisms.

13. *Depreciation*. Depreciation rates determine the level of expenses associated with the use of investments. Commenters disagree on whether depreciation rates used in the proxy models are too high or too low. Their positions reflect opinions regarding the impact of competition on depreciation rates and the extent to which the cost of supported services should be affected by competitive pressures. We believe that proxy models should use depreciation rates that reflect economic costs and should be flexible enough to permit depreciation rates set by regulators.

14. *Annual Charge Factors.* Annual charge factors or expense factors determine the level of expenses. In the BCM2 and Hatfield proxy models, plant-specific annual charge factors are determined as the ratio of ARMIS expenses to investment. Several commenters express concern that use of the ARMIS data conflicts with the desire to develop forward-looking costs because the ARMIS data are embedded cost statistics. The proxy models do not rely on the ARMIS expenses, but rather on the ratios of expenses to investment. The ARMIS expense to investment ratio is a ratio of current year expenses to investments purchased over many years. We recommend that the level of expenses be based on an analysis that calculates forward-looking expenses. If the Commission concludes that the ARMIS expense ratios are a reasonable starting position for determining forward-looking expenses, then we recommend that these ratios be modified to reflect changes in the expenses required to support and maintain forward-looking investments. For example, because the models only use digital switches, switch maintenance expenses should not include maintenance expenses associated with analog stored program or electromechanical switches. Expenses used in the models should be accurately reflected.

15. *Joint and Common Costs.* In its *Local Competition Order*, the Commission defined common costs as ''costs that are incurred in connection with the production of multiple products or services, and remain unchanged as the relative proportion of those products or services varies (e.g., the salaries of corporate managers).'' With regard to the proxy models used for the purpose of establishing universal service support the Commission must determine how to allocate common costs among the services supported by the universal service mechanism and all other services.

16. The Hatfield model estimates the common cost of corporate operations by multiplying all other expenses by 10 percent. This procedure generates corporate operations expenses that are between 25 and 50 percent of the corporate operations expenses reported in ARMIS. The BCM2 divides ARMIS total corporate operations expenses for all reporting companies by the total number of lines served by these companies. It assigns 75 percent of this per-line value to the cost of providing the supported services. These differences explain approximately 11 percent of the difference between the average monthly forward-looking costs estimated by the Hatfield and BCM2 models. Further investigation is required before it would be possible to conclude that either of the proposed approaches or some other approach to the estimation is a reasonable level of corporate operations expenses to be included in calculation of the cost of providing the supported services.

17. *Retail Costs.* Retail costs are the costs associated with billing and collection, product management, sales, and advertising and other customer service expenses. The Hatfield model excludes product management, sales, and advertising expenses. It includes billing and collection costs and other customer services expenses. Because of these assumptions, the Hatfield model includes only 21 to 25 percent of ARMIS customer operations expenses in its cost estimates. The BCM2 model incorporates 75 percent of the ARMIS customer operations expenses in its cost estimates. The differences in the treatment of customer operations accounts for 19 percent of the difference between the average monthly forward-looking costs estimated by the Hatfield and BCM2 models.

18. NCTA's ETI report asserts that regulators should rigorously evaluate the ARMIS data before accepting them as a basis for forward-looking costs. Its investigation of a Massachusetts cost study reveals that a significant proportion of product management expenses are related to market management and planning for business customers. NCTA argues that close examination of sales and advertising expenses reveals that these expenses are not related to the provision of basic residential service. It concludes that only four percent of marketing expenses should be assigned to the cost of providing the supported services. We agree that rigorous evaluation of the ARMIS data, to the extent ARMIS data are used, is necessary. We are not willing, however, to conclude that ARMIS data are the only data that should be used to determine retail costs. Therefore, we are not prepared to recommend what would be the reasonable amount of retail costs.

19. *Model results.* The model results produce significantly different estimates of the nationwide total amount of support required to maintain the provision of the supported services in high costs areas. For example, at a $20.00 benchmark, using the model's default settings, the Hatfield model indicates that the universal service support would be $5.3 billion, which is the sum of $3.4 billion for large LECs and $1.9 billion for non-Tier1 LECs. The BCM2, at a $20.00 benchmark, indicates that support would be $14.6 billion. The remaining difference, $9.5 billion, is a function of the model input costs and engineering design principles.

20. Another means of evaluating the models is to compare their results to the results generated by embedded-cost studies. Because forward-looking and embedded costs rely on different input costs and technologies, the results from these studies are likely to differ. We are concerned, however, about large changes in the relative position of the states when comparing our embedded cost results to the results generated by the proxy models. The state characteristics, such as population density and terrain factors, that cause telephone companies in a state to exhibit high forward-looking costs in the models, do not cause those telephone companies to exhibit relatively high embedded costs. Alternatively, the change in position could be caused by specific management or accounting practices that affect embedded costs but that would not be reflected in forward-looking costs. A state's relative position can be measured by its rank, where the

state with the lowest cost has a rank of one and the state with the highest cost would have a rank of 51. A change in the rank order is the difference between the rank order estimated by a model and the rank order according to the current high cost assistance mechanism, which ranks states by embedded loop costs. For example, the change in rank order for California is three because it is the third lowest cost state according the BCM2 and it is the sixth lowest cost state according to the High Cost Fund. There are fifteen states for which the change in rank order is greater than ten. (For those fifteen states, the change in cost per line per month ranged from $3.06 to $24.41, with an average change of $10.47.) We believe it is necessary to determine why these large changes occur, and to ensure that the change in rank order does not threaten the provision of the supported services in these states.

21. *Measure of support.* The two models on the record calculate support required for the provision of the supported services as the product of the number of lines in a geographic area and the difference between a cost estimate and a uniform benchmark amount. BCM2 uses the CBG as the geographic area to measure the line count and cost estimate. BCM2 sums the support across all CBGs in a state to determine the state-wide support level. Calculation of support at either the wire center, study area, or density zone level is not a standard output of the model. Further manipulation of the BCM2 input sheets is required to obtain these results. The Hatfield model estimates the cost per CBG. The model average CBG cost estimates across six density zones. It uses the difference between the density zone average and the benchmark to determine the per-line support per density zone. It multiplies the per-line support by the number of lines per density zone to estimate the density zone support and then sums across all density zones to determine the support for the study area. Calculation of support at either the CBG or wire center level is not a standard output of the model. Further manipulation of the Hatfield model input sheets is required to obtain these results.

22. Any proxy model used to calculate universal support levels should be able to provide estimates of support at various geographic levels with a state, such as on a study area, wire center, density zone, or CBG basis. These estimates would enable the Commission and state commissions to compare alternative decisions regarding support areas, and it is necessary so that we will be able to establish a specific, predictable and sufficient mechanism to preserve and advance universal service.

Appendix II—Service List

The Honorable Reed E. Hundt, Chairman
Federal Communications Commission, 1919 M Street, NW, Room 814, Washington, DC 20554
The Honorable Rachelle B. Chong, Commissioner
Federal Communications Commission, 1919 M Street, NW, Room 844, Washington, DC 20554
The Honorable Susan Ness, Commissioner
Federal Communications Commission, 1919 M Street, NW, Room 832, Washington, DC 20554
The Honorable Julia Johnson, Commissioner
Florida Public Service Commission, 2540 Shumard Oak Blvd., Gerald Gunter Building, Tallahassee, FL 32399–0850
The Honorable Kenneth McClure, Commissioner
Missouri Public Service Commission, 301 W. High Street, Suite 530, Jefferson City, MO 65101
The Honorable Sharon L. Nelson, Chairman
Washington Utilities and Transportation Commission, PO Box 47250, Olympia, WA 98504–7250
The Honorable Laska Schoenfelder, Commissioner
South Dakota Public Utilities Commission, State Capitol, 500 E. Capitol Street, Pierre, SD 57501–5070
Martha S. Hogerty
Public Counsel for the State of Missouri, PO Box 7800, Jefferson City, MO 65102
Anna Gomez, Federal Staff Chair
Federal Communications Commission, 2100 M Street, NW, Room 8617, Washington, DC 20036
Paul E. Pederson, State Staff Chair
Missouri Public Service Commission, PO Box 360, Jefferson City, MO 65102
Lisa Boehley
Federal Communications Commission, 2100 M Street, NW, Room 8605, Washington, DC 20554
Charles Bolle
South Dakota Public Utilities Commission, State Capitol, 500 E. Capitol Street, Pierre, SD 57501–5070
Deonne Bruning
Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, PO Box 94927, Lincoln, NE 68509–492
James Casserly, Senior Legal Advisor
Office of Commissioner Susan Ness, Federal Communications Commission, 1919 M Street, Room 832, Washington, DC 20554
John Clark
Federal Communications Commission, 2100 M Street, NW, Room 8619, Washington, DC 20554
Bryan Clopton
Federal Communications Commission, 2100 M Street, NW, Room 8615, Washington, DC 20554
Irene Flannery
Federal Communications Commission, 2100 M Street, NW, Room 8922, Washington, DC 20554
Daniel Gonzalez, Legal Advisor
Office of Commissioner Rachelle B. Chong, Federal Communications Commission, 1919 M Street, NW, Room 844, Washington, DC 20554
Emily Hoffnar
Federal Communications Commission, 2100 M Street, NW, Room 8623, Washington, DC 20554
L. Charles Keller
Federal Communications Commission, 2100 M Street, NW, Room 8918, Washington, DC 20554
Lori Kenyon
Alaska Public Utilities Commission, 1016 West Sixth Avenue, Suite 400, Anchorage, AK 99501
David Krech
Federal Communications Commission, 2025 M Street, NW, Room 7130, Washington, DC 20554
Debra M. Kriete
Pennsylvania Public Utilities Commission, PO Box 3265, Harrisburg, PA 17105–3265
Diane Law
Federal Communications Commission, 2100 M Street, NW, Room 8920, Washington, DC 20554
Mark Long
Florida Public Service Commission, 2540 Shumard Oak Blvd., Gerald Gunter Building, Tallahassee, FL 32399
Robert Loube
Federal Communications Commission, 2100 M Street, NW, Room 8914, Washington, DC 20554
Samuel Loudenslager
Arkansas Public Service Commission, PO Box 400, Little Rock, AR 72203–0400
Sandra Makeeff
Iowa Utilities Board, Lucas State Office Building, Des Moines, IA 50319
Philip F. McClelland
Pennsylvania Office of Consumer Advocate, 1425 Strawberry Square, Harrisburg, Pennsylvania 17120
Michael A. McRae
D.C. Office of the People's Counsel, 1133 15th Street, NW.—Suite 500, Washington, DC 20005
Tejal Mehta
Federal Communications Commission, 2100 M Street, NW., Room 8625, Washington, DC 20554
Terry Monroe
New York Public Service Commission, 3 Empire Plaza, Albany, NY 12223
John Morabito, Deputy Chief, Accounting and Audits Division
Common Carrier Bureau, Federal Communications Commission, 2000 L Street, NW., Suite 812, Washington, DC 20554
Mark Nadel
Federal Communications Commission, 2100 M Street, NW., Room 8916, Washington, DC 20554
John Nakahata, Senior Legal Advisor
Office of Chairman Reed E. Hundt, Federal Communications Commission, 1919 M Street, NW., Room 814 Washington, DC 20554
Lee Palagyi
Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive SW., Olympia, WA 98504
Kimberly Parker

Federal Communications Commission, 2100 M Street, NW., Room 8609, Washington, DC 20554
Barry Payne
Indiana Office of the Consumer Counsel, 100 North Senate Avenue, Room N501, Indianapolis, IN 46204–2208
Jeanine Poltronieri
Federal Communications Commission, 2100 M Street, NW., Room 8924, Washington, DC 20554
Michael Pryor
Federal Communications Commission, 2100 M Street, NW., Room 8905, Washington, DC 20554
James Bradford Ramsay
National Association of Regulatory Utility Commissioners, PO Box 684, Washington, DC 20044–0684
Brian Roberts
California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102
Gary Seigel
Federal Communications Commission, 2000 L Street, NW., Suite 812, Washington, DC 2055
2100 M Street, NW., Room 8605, Washington, DC 20554
Pamela Szymczak
Federal Communications Commission, 2100 M Street, NW., Room 8912, Washington, DC 20554
Lori Wright
Federal Communications Commission, 2100 M Street, NW., Room 8603, Washington, DC 20554

[FR Doc. 96–30381 Filed 11–29–96; 8:45 am]
BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 96–236, RM–8907]

Radio Broadcasting Services; Wake Village, Texas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Phillip W. O'Bryan proposing the allotment of Channel 223A at Wake Village, Texas, as the community's first local aural transmission service. Channel 223A can be allotted to Wake Village in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.4 kilometers (2.1 miles) northeast to avoid a short-spacing conflict with an application for Channel 224C2 at Blossom, Texas. The coordinates for Channel 223A at Wake Village are 33–25–09 and 94–04–18.

DATES: Comments must be filed on or before January 13, 1997 and reply comments on or before January 28, 1997.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Phillip W. O'Bryan, 804 Clear Creek Drive, Texarkana, Texas 75503 (petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 96–236, adopted November 15, 1996, and released November 22, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–30587 Filed 11–29–96; 8:45 am]
BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 96–231, RM–8903]

Radio Broadcasting Services; Redwood, Mississippi

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Dominant Communications Corporation proposing the allotment of Channel 288A at Redwood, Mississippi, as the community's first local aural transmission service. Channel 288A can be allotted to Redwood in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.8 kilometers (1.7 miles) south in order to avoid a short-spacing conflict with the licensed site of Station WNLA(FM), Channel 288A, Indianola, Mississippi. The coordinates for Channel 288A at Redwood are 32–27–13 and 90–48–42.

DATES: Comments must be filed on or before January 6, 1997, and reply comments on or before January 21, 1997.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Carl Haynes, President, Dominant Communications Corporation, P.O. Box 31235, Jackson, Mississippi, 39286–1235.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 96–231, adopted November 8, 1996, and released November 15, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–30585 Filed 11–29–96; 8:45 am]
BILLING CODE 6712–01–P