State of California **Public Utilities Commission**
San Francisco

M E M O R A N D U M

Date: **May 22, 2007**

To: **The Commission**
(Meeting of May 24, 2007)

From: **Helen Mickiewicz – Assistant General Counsel**
Gretchen Dumas – Public Utility Counsel IV

Subject: **Re: Federal-State Joint Board on Universal Service Request for Further Comments on Universal Service High-Cost Fund Reform and on Federal-State Joint Board on Universal Service Recommended Decision to Impose Interim Cap (FCC CC Docket No. 96-45)**

RECOMMENDATION

The CPUC should file comments in response to Public Notices from the Federal Communications Commission (FCC) seeking comments *In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service*; WC Docket No. 05-337; CC Docket No. 96-45.

This memo is an addendum to the May 18, 2007 memo on this item.

Recommended Comments on Notice of Proposed Rulemaking on Joint Board Interim Cap Proposal

On May 1, 2007, the Federal-State Joint Board on Universal Service (Joint Board) released a *Recommended Decision* (FCC 07J-1) proposing that the Federal Communications Commission (FCC) take immediate action to rein in the growth in federal high-cost universal service support disbursements by imposing an interim, emergency cap on the amount of high-cost support that competitive eligible telecommunications carriers (ETCs) may receive for each state based on the average level of competitive ETC support distributed in that state in 2006.

In the Memo of Recommendation dated May 18, 2007, California Public Utilities Commission (Commission) staff recommended that the Commission file comments suggesting that if a competitive ETC cap *is* instituted, a more appropriate approach to funding under the cap would be a national cap set at 2006 charges. In this way, every

competitive ETC's share would be affected by the addition of new competitive ETCs in any state.

Commissioner John Bohn is recommending that this position be amended as follows:

1) to expressly state that the Commission supports the cap as an interim measure to control the growth of the high cost fund, and

2) to amend, for clarification purposes only, the recommended statement of how funds under the cap should be distributed to as to state that the Commission believes the cap should be a national cap based upon 2006 charges (subject to true up) and that every competitive ETC’s share be recalculated to reflect the addition of any new competitive ETC, in any state.

The Commission should support the cap as a pragmatic but interim measure only. A cap will curb the explosive growth of the fund and will avert financial catastrophe for the immediate future. Without a cap, the funding burden on California will continue to grow via out-of-state competitive ETC growth. The interim cap is reasonable to protect California ratepayers and provide the FCC time to address permanent solutions.

However, the cap is arbitrary and should not be used as a long term solution. The Commission should urge the Joint Board and the FCC to implement comprehensive reform of the federal high-cost universal service program within the next 18 months as contemplated in the Joint Board’s *Recommended Decision*.

GTD:jmc