

MEMORANDUM

Date : April 3, 2008

To : The Commission
(Meeting of April 10, 2008)

From : Laura Gasser
Public Utilities Counsel IV

Subject: Filing of Comments in Response to FCC's Notice of Proposed Rulemaking regarding Federal-State Joint Board on Universal Service's Recommendation for High Cost Universal Service Support Reform; WC Docket No. 05-337; CC Docket No. 96-45.

RECOMMENDATION: The CPUC should file comments in response to the Federal Communications Commission's (FCC) Notice of Proposed Rulemaking (NPRM), adopted January 16, 2008, seeking comment on ways to reform the federal high-cost universal service program. Specifically, the FCC is seeking comments on the recommendation of the Federal-State Joint Board on Universal Service (Joint Board) regarding comprehensive reform of high-cost universal service support. Comments are due April 17, 2008.

BACKGROUND: At the FCC's request, the Joint Board reviewed the FCC's rules relating to the federal high-cost universal service support mechanisms for rural carriers and competitive eligible telecommunications carriers (ETCs), with the aim of making recommendations for comprehensive reform of the high-cost fund. The high cost fund has seen explosive growth over the last several years, and there is concern that without action to restrain the growth, the fund may not be sustainable.

On May 1, 2007, the Joint Board sought comment on proposals for addressing these issues. The CPUC filed comments with the Joint Board on May 31, 2007. On November 20, 2007, the Joint Board issued its Recommended Decision. Recommended Decision, FCC 07J-4, *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45 (rel. Nov. 20, 2007).

The Joint Board made the following recommendations for reform of the federal high-cost fund:

- ❖ Transition from current high cost fund to three distinct funds, with separate distribution mechanisms and separate funding allocations:
 - The Broadband Fund -- for construction of Broadband Internet access facilities in unserved areas;
 - The Mobility Fund -- for construction of wireless voice facilities in unserved areas; and
 - The Provider of Last Resort (POLR) Fund -- legacy wireline voice funding;
- ❖ Cap overall high-cost funding at \$4.5 billion, which is approximately equal to the 2007 level of high-cost funding;
- ❖ Permit states to administer the Broadband and Mobility Funds and determine the areas and providers to receive support from the funds;
 - Require states to meet federal standards for awarding funds and accountability, and require the Universal Service Administrative Company (USAC) to process and audit fund awards;
 - Permit states to employ either a competitive bidding process such as auctions with specific, transparent federal guidelines or a suitable cost-based mechanism to fund capital infrastructure projects for mobility and broadband projects;
- ❖ Encourage states to provide matching funds for Broadband Fund and Mobility Fund support;
- ❖ Include broadband Internet access service and mobility service (defined as wireless voice) in the definition of “universal service”;
- ❖ Eliminate “identical support rule” for competitive ETCs;
- ❖ Explore the most appropriate reverse auction mechanisms to determine high-cost universal service support for ETCs serving rural, insular, and high cost areas; and
- ❖ Establish a process and timetable to review and modernize the existing high-cost mechanisms for rural and non-rural carriers.

DISCUSSION: Staff recommends that the CPUC file comments in support of and in opposition to certain of the Joint Board’s proposals. Staff’s specific recommendations are as follows, in summary form:

Proposed Broadband Fund: Staff recommends that the CPUC support this proposal to create a grant fund for the construction of broadband Internet access facilities in unserved areas. All broadband providers should be required to contribute to the fund.

Proposed Mobility Fund: Staff recommends that the CPUC support this proposal to create a grant fund specifically for the construction of wireless voice facilities in unserved areas.

Proposed Provider of Last Resort Fund; reform: Staff recommends that the CPUC encourage the FCC to establish a process and timetable to review and modernize the existing high-cost mechanisms for rural and non-rural carriers, as recommended by the Joint Board.

Overall funding cap: Staff recommends that the CPUC agree that, as general matter, overall high cost funding should be capped at some level.

State administration of Broadband and Mobility Funds: Staff recommends that the CPUC support state administration of the proposed funds in accordance with general FCC guidelines. However, states should be able to establish their own criteria and methodology for choosing grant recipients.

Matching funds: Staff recommends that the CPUC support the Joint Board’s recommendation for a state matching grants requirement for the Broadband and Mobility Funds. If state matching grants are required, states should be permitted to collect surcharges from intrastate broadband providers for purposes of matching grants for the Broadband Fund and/or be permitted to require matching grants from industry.

Broadband Internet access service as a “Universal Service”: Consistent with the CPUC’s existing position on this issue, Staff recommends that the CPUC oppose adding broadband Internet access service to the definition of universal service. The CPUC previously opposed this proposal in May 31, 2007 comments filed with the Joint Board, on the basis that adding broadband Internet access services to the fund would almost assuredly substantially increase the draw on the fund.

Eliminate “Identical Support Rule”: Staff recommends that the CPUC refrain from commenting on this issue at this time, as a similar issue is pending before the CPUC in the California High Cost Fund-B (CHCF-B) proceeding (R.06-06-028).

The FCC also seeks comments on this issue in a separate, concurrent NPRM, and Staff recommends the CPUC not comment on that separate NPRM as well.

“Reverse Auctions” process: Staff recommends that the CPUC file limited comments, stating that the CPUC’s goal in the pending second phase of the CHCF-B proceeding (R.06-06-028) is to institute a market-driven reverse auction process to determine high cost support levels. Staff further recommends that the CPUC refrain from making any policy recommendations on the specifics of a reverse auction process, because similar issues are still pending in the R.06-06-028 proceeding. The FCC also seeks comments on this issue in a separate, concurrent NPRM, and Staff recommends that the CPUC file limited comments on that NPRM as well (see separate agenda memo dated April 3, 2008 regarding the reverse auction NPRM).

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