STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 97-429

July 17, 1997

PUBLIC UTILITIES COMMISSION
Inquiry Into Implementing the
Universal Service Provisions of
the Telecommunications Act of 1996

NOTICE OF INQUIRY

WELCH, Chairman; NUGENT and HUNT, Commissioners

I. INTRODUCTION

In this Notice, we discuss the Commission's general plans for implementing the Universal Service Provisions of the Federal Telecommunications Act of 1996 (TelAct) and open an inquiry to obtain information to assist the Commission in carrying out its plan.

The inquiry asks interested persons to comment on the identified tasks and issues, and the methods the Commission may use to implement the TelAct. The Commission expects to implement its plan in two phases: Phase I will consist of identifying and grouping tasks and elements, and conducting individual rulemaking or other proceedings to complete the tasks.[1] Phase II will be a proceeding on establishing a universal service fund at the state level. In Phase II, the Commission will consider whether to supplement federal universal service mechanisms with a state universal service fund. If the Commission decides to establish a state fund, it will conduct a proceeding to identify universal service elements and the areas within the state that are eligible to receive state support; determine the level of support available and the mechanism used to finance the fund; develop standards for administering the fund; and designate a fund administrator.

Preliminary comments are due August 15, 1997. The Commission may supplement the list of questions for particular areas before or shortly after the due date for preliminary comments. After reviewing the comments, the Commission plans to conduct a workshop outlining the framework the Commission has chosen to

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[1]Where possible, currently docketed cases dealing with issues related to implementing the TelAct will be consolidated with the universal service proceedings that arise out of this inquiry.

implement the TelAct. The Commission expects to complete both Phases no later than December 1998.

II. PHASE I ISSUES

The Commission has identified 11 categories of issues it plans to consider under the umbrella of universal service. The notice briefly describes each category, and for some categories, lists specific issues and questions on which the Commission seeks comment.

1. Federal Universal Service Fund

A. Cost Models

The federal Universal Service Fund (Federal Fund) will use a forward-looking cost study model to provide support for eligible telecommunications' carriers. However, subject to FCC approval, a state may use its own cost model as a basis for receiving federal (and state) Fund support, provided the state notifies the FCC by August 15, 1997, of its plan to develop a state cost model and submits the model for approval by February 1998. To avoid foreclosing the option of using a state-specific cost model, the Commission will notify the FCC that we plan to develop a state cost model.

> 1.A Assuming that the Commission does develop its own cost model, please identify preferred models and briefly describe their respective economic advantages and disadvantages.

B. Identifying and Quantifying Existing Subsidies

The TelAct requires specific and predictable federal and state universal service mechanisms. States must identify and quantify existing subsidies to establish these mechanisms. The Commission has identified the following subsidies[2] and seeks comments on how to quantify them:

1. Geographic Rate Averaging. The Commission proposes to quantify the difference in costs to serve urban areas and rural areas by developing a stratified cost zone model. The

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[2]For purposes of our universal service proceedings, the term "subsidy" is used as the FCC appears to use that term; that is, a rate for an element that is priced below cost or one that bears a disproportionate share of the costs for another service.

model would divide the state into three to five zones, ranging from urban to rural, and develop an average cost of serving each zone.

2. Intrastate Settlement Contracts. The Commission proposes to quantify the shortfall, if any, to incumbent Local Exchange Carriers, of the elimination of the current intrastate settlement contracts process (scheduled for December 1997).

3. Business to Residential Subsidy. The Commission proposes to quantify the difference between the cost of providing business and residential service with the rates currently paid by each class.

The Commission has identified two additional elements that we will treat as subsidies for purposes of this proceeding:

4. Reconciliation of Embedded Costs to Forward Looking Costs. In keeping with the TelAct's requirement to provide universal service support based on forward looking cost models, the Commission proposes to develop a mechanism to quantify the difference between a LEC's embedded costs and support based on forward looking cost models.

5. The Difference between Interstate Access Charge Rates and Intrastate Access Charge Rates. Although Maine's intrastate access charges are currently higher than interstate access rates, the intrastate charges will be equal to or lower than the federal interstate access rates no later than May 1999.[3]

> 1.B.1 Please comment on the subsidies and elements the Commission has identified and propose methods that the Commission may use to quantify each one.

For the rate averaging subsidy, is there another preferred method of determining urban and rural areas? If some other number of zones is appropriate, please recommend the number of zones and reasons for your recommendation.

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[3]Docket No. 97-319, Notice of Rulemaking, Notice of Inquiry; Proposed Amendment of Chapter 280 to Achieve Parity with Interstate Access Rates by May 30, 1999.

For the settlements subsidy, the Commission invites analysis of the effect of both "bill and keep" and replacing settlements with access charges, set at the National Exchange Carriers Association level, and with access charges set at NECA pool disbursement levels.

For the access charge element, please calculate the magnitude of moving intrastate access charges to interstate levels.

1.B.2 Are there additional services whose costs are not supported by current rates? If so, please identify and quantify the subsidy or propose a method of quantifying the subsidy.

2. Lifeline/LinkUp Programs

In January 1998, the current federal support increases from $3.50 to $5.25 per month. If Maine continues its current $3.50 support, Lifeline customers will receive another $1.75 in federal support for a total support of $10.50. To be eligible for the increased federal support, the Commission must agree to accept the increased federal support and recertify its $3.50 state match. Additionally, the FCC will now permit self-certification, and no longer require states to base Lifeline eligibility on existing programs, such as Medicaid, as long as eligibility is based on income.

> 2.A Should the Commission accept the increase in federal support and continue its matching $3.50 match?

2.B Should the Commission permit self-certification? If so, please comment on methods to avoid misrepresentation of eligibility.

2.C Should the Commission expand Lifeline eligibility to those marginally above current eligibility guidelines? If so, what percentage of poverty or other income guidelines should the Commission use?

2.D Should the Commission continue to fund the state match through the ratemaking process? If not, please suggest other funding mechanisms.

3. Designating Carriers of Last Resort/Eligible Carriers/Service Areas

To be eligible for federal universal service support, carriers must provide all federal universal service elements to residential customers and single-line business customers, and offer Lifeline services, in a designated service area. The Commission must designate the geographic parameters of the service area (which serves as a basis for determining universal service support); a carrier of last resort for each service area; and certify that carriers are eligible to receive universal service support. The Commission is considering a two-tiered certification process for carriers seeking to provide local service: Tier I approval grants eligible carrier status which allows the carrier to receive universal service support for service provided to residential and single-line business customers. Tier II approval allows a carrier to serve any customer or customer class but does not permit a carrier to receive universal service support. Applicants for Tier I status are subjected to more formal Commission approval proceedings and regulatory oversight than Tier II status.[4]

> 3.A. What criteria should the Commission use to define service areas? Should a service area encompass less than an incumbent LEC's service territory? If not, please explain how using service territories meets the FCC's prohibition against overly broad service areas.

3.B. Should the Commission adopt a two-tiered approach to applications for carrier status? Can a single approach be designed to promote competition? What other alternatives are available?

3.C. What criteria and standards should the Commission require carriers to meet as a condition of granting eligible carrier status?

4. Incumbent LEC compliance with the TelAct

The TelAct requires eligible carriers to provide universal service elements and to offer the Lifeline program. In preparation for implementing the TelAct, in early August, the

[4]Carriers may apply for Tier I and Tier II approval in the same service area or Tier I status in one service area and Tier II status in another area.

Commission will issue a data request to incumbent LECs to determine a) whether LECs plan to apply for carrier of last resort or eligible carrier status; b) if the LECs' current facilities are capable of providing universal service and Lifeline elements; and c) an expedient method for Commission review and approval of Terms and Conditions.

> 4.B. To the extent that parties wish to comment on this section, please identify and describe preferred methods of processing changes to Terms and Conditions.

5. Compliance Review of Existing Rules and Statutes and Identifying Bases for New Rules and Statutes

A state's statutes and its commission's rules can not be inconsistent with the TelAct. The Commission plans to review all its existing rules and Maine statutes and revise them where necessary to comply with the TelAct. Similarly, if the Commission believes that additional legislative authority is required to comply with the TelAct, the Commission will prepare an outline report for the next legislative session.

> 5.A. This fall, the Commission will open a rulemaking proceeding to revise its Chapter 810 to address the issue of disconnecting a residential customer's local service for nonpayment of toll charges and to comply with the FCC rule forbidding carriers from disconnecting a Lifeline customer's local service for nonpayment of toll bills. Please identify other provisions in the Commission's rules that must be revised or repealed to comply with the TelAct and cite the specific provision of the TelAct with which the rule is inconsistent.

5.B. Is the Commission's Chapter 204, Basic Service Calling Area Rule inconsistent with the underlying goals and objectives of the TelAct? Should the BSCA rule be revised or repealed? How can the BSCA rule's provisions for expanding Premium Calling Areas and optional calling plans be implemented with the advent of local competition?

5.C. Please identify any Maine statutes that are inconsistent or require revision to implement the TelAct and cite the specific provision of the TelAct with which the statute is inconsistent.

6. Service Standards

Under the TelAct, states have primary responsibility for developing and monitoring quality of service standards. The Commission has begun this process in its Docket No. 97-192, Inquiry into Telecommunications Service Standards, which sought preliminary comments on technical service standards and elements of basic service. The Commission plans to incorporate the comments from the service standards inquiry into this universal service inquiry.

> 6.A. Should the Commission institute technical service standards through a rulemaking process or a less formal mechanism, such as a service standard policy? Should there be separate rules for technical standards and consumer standards?

6.B. Should all carriers be required to meet service standards or should the requirement be limited to eligible carriers?

7. Affordability of Telecommunications Service

The TelAct gives states primary authority to define affordability of rates and services. Under the FCC rules, affordability must consider local calling capabilities, the ability to call within a community of interest, and must include some level of local usage as basic service. The Commission may promulgate an affordability rule or adopt affordability goals and standards. These standards may include providing levels of support when local calling capabilities or Lifeline penetration levels drop below a designated level.

> 7.A. How should the Commission define and measure affordability? Should it be based on Maine rates versus nationwide average rates, rural rates versus urban rates, or a combination of both?

7.B. What additional elements should the Commission include in determining Affordability? What level of local calling capability and local usage should the Commission include in its definition of Affordability?

8. Consumer Issues

The TelAct requires eligible carriers to advertise universal service elements and Lifeline programs. As part of a consumer outreach/education effort, the Commission is exploring plans to develop carrier standards for sales practices, making

service quality standards reports available to the public, publishing rate comparisons, and developing educational materials. The Commission began this process in Dockets No. 97-286, Inquiry into Noticing Customers of Rate Changes, and No. 97-155, Proposed Rulemaking, Disclosing Low Cost Telephone Plans to Customers, which will be incorporated into this inquiry proceeding.

> 8.A. To the extent that parties wish to comment on this section, please describe the preferred method for developing carrier standards on consumer issues.

9. Public Interest Pay Telephones

Although the FCC proposes to deregulate rates for pay telephones, states retain primary authority over public interest pay telephones.

> 9.A. Should the Commission retain its current policy of requiring at least one public interest pay telephone in each exchange? Are there other indicators (e.g., rates of traffic flows past intersections, minimum distance along heavily traveled highways, population density and household income levels, etc.) according to which public interest payphones should be deployed? If yes, please specify and state your reasons therefore. How should the Commission ensure that local calls are priced to reflect the underlying goals of public interest pay telephones?

10. Rural Health Care Facilities

Annual universal Service support is available on a first-come first-served basis for rural health care facilities to ensure they have access to services similar to those available in urban areas. The fund provides a direct subsidy based on the difference between the average rural rate and the average highest tariffed urban rate (nearest city within the state with a population of 50,000).

> 10.A Please describe the most efficient method of implementing this provision, including the method of calculating the average rural and urban rates.

11. Schools and Libraries

The TelAct's provisions related to Schools and Libraries will be addressed in the Commission's Docket No. 97-430.

III. PHASE II. MAINE UNIVERSAL SERVICE FUND

The TelAct permits states to develop a state universal service fund as long as the additional state elements/support promotes competition and the fund does not rely on the federal universal service fund for support. Although the Commission will address a state fund in Phase II of this proceeding, we invite preliminary comments on this issue.

> Phase II.A Should the Commission establish a state universal service fund?

II.B. Does the need to establish a state universal service fund depend on the degree to which the Commission geographically deaverages retail rates and unbundled network elements?

II.C. Can the Commission, without further legislative action implement a fund?

II.D. Who should contribute to the fund? If Carriers only, should the fund be based on intrastate and interstate revenues? Is a fund supported by end user surcharge only legal?

II.E. What services or elements should the Commission include in a state universal service fund? What areas should be eligible for support?

II.F. Should all eligible carriers receive support or only carriers of last resort?

Interested persons may file comments or answers to any or all of the above questions by August 15, 1997. Persons may also raise and comment on any additional relevant issues that are not included in the above list.

Accordingly, we

O R D E R

1. That an inquiry shall be opened as described in the body of this Notice;

2. That this Notice shall be sent to all telecommunications utilities in the State of Maine including

incumbent local exchange carriers, identified potential competitive local exchange carriers, registered interexchange carriers and reseller companies; and cable television companies.

3. That this Notice shall be sent to consumer groups who have actively participated in recent Commission proceedings;

4. That notice of this inquiry will also be posted on the Commission's web site, http://www.state.me.us/mpuc/.

Dated at Augusta, Maine, this 17th day of July, 1997.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Hunt

This document has been designated for publication.