

UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

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FEDERAL-STATE JOINT BOARD)
ON UNIVERSAL SERVICE)
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PUBLIC MEETING)
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Denver Marriott Hotel
 Salon A & B
 1701 California Street
 Denver, Colorado

July 31, 2003
 8:30 a.m.

BEFORE:

HON. KATHLEEN Q. ABERNATHY, FEDERAL CHAIR
 HON. NAN THOMPSON, STATE CHAIR

ALSO PRESENT:

HON. BILLY JACK GREGG, STATE CONSUMER ADVOCATE,
 WEST VIRGINIA
 HON. THOMAS DUNLEAVY, NEW YORK STATE PUBLIC
 SERVICE COMPANY
 HON. JONATHON S. ADELSTEIN, FEDERAL
 COMMUNICATIONS COMMISSION
 HON. BOB ROWE, MONTANA PUBLIC SERVICE COMMISSION

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P R O C E E D I N G S

COMMISSIONER ABERNATHY: Okay. We'll go ahead and get started, and first of all I want to welcome everyone to this public forum on the FCC's rules about the designation and the funding of Eligible Telecommunications Carriers, or ETCs, in rural areas.

We have a great lineup of panelists, and I want to thank all of you for coming here at your own expense to help us, as a joint board, grapple with this issue and for making it a priority. It's certainly a priority for us, and it's very, very complex, and it's going to require all of our best efforts to figure out where we should be headed.

I think our ultimate goal, of course, is to ensure the preservation and enhancement of universal service, and in order to do this we need to focus on two primary issues: how we collect contributions into the fund, which is one piece of it, something we're not dealing with today; and then how we distribute the support to the carriers.

And on the collection side, as you know, we've got an ongoing proceeding like augment issue on the contribution methodology, and also Congress is looking at it.

So today we're going to be focusing on the demand side. We need to consider the impact of competition in

1 rural markets for the demand on universal service support,
2 and we need to make sure that the fund doesn't grow so long
3 that we end up threatening the viability of the system.

4 Now, a lot of the debate surrounding the
5 portability issue has centered on the question of wireless
6 entry into rural markets and the flow of support to the
7 wireless carriers.

8 And I want to make clear at the outset of this
9 joint board proceeding that this is not about whether
10 wireless carriers should be eligible for support. In my
11 view, the rules have to remain technologically and
12 competitively neutral, and all of the providers add great
13 value to rural America.

14 At the same time, though, we have to ensure our
15 obligation is to make sure that universal service policies
16 do not distort competition and that competitors enter rural
17 markets when there's a rational business case to be made to
18 do so and not simply because there may be a federal subsidy
19 available.

20 And I think our discussion today will focus on
21 ensuring that our ETC rules produce rational results from a
22 competitive standpoint and sustainable results from a
23 universal service standpoint and that they are fundamentally
24 fair and equitable to all the parties out there promoting
25 service in rural areas.

1 I want to thank you all for coming, and I'm going
2 to lay the ground rules. We will be keeping close track of
3 the time today, because I do want to keep everyone on time.

4 You're limited to three-minute introductory remarks. It is
5 important that we have sufficient time for the questions and
6 answers that follow. You'll get a warning at the one-minute
7 mark, and then a buzzer will sound at the end of the three-
8 minute time, I think. If it doesn't, I'll cut you off.

9 So I now want to provide an opportunity for all
10 of my colleagues to also make introductory remarks, and then
11 we'll move forward with the panels.

12 STATE CONSUMER ADVOCATE GREGG: Good morning,
13 everybody. I will just echo the comments of Commissioner
14 Abernathy. We are here to focus on the outgo portion of the
15 fund.

16 As we all know, the crisis of universal service
17 has been the ever-escalating assessment fee, which is a
18 result of both the income, the contribution base, and the
19 outgo. Today's hearing focuses on the outgo.

20 Our responsibility as the joint board and the FCC
21 is ultimately to make sure that the fund remains sustainable
22 long term so it can continue to bring the benefits of
23 universal service to all parts of our nation.

24 And my hope is that we focus here today on the
25 benefits to consumers from universal service. I know that

1 most of the commenters here today represent companies, but I
2 think we need to keep in mind the injunction of the Fifth
3 Circuit in the ALENCO decision that said the Act promises
4 universal service, and that requires adequate funding of
5 customers, not carriers.

6 Thank you.

7 COMMISSIONER THOMPSON: Thank you. I'm also very
8 pleased to be here today at this hearing with the full joint
9 board, or as much of them as were able to attend, to enhance
10 the record in this proceeding to help us make a good
11 decision on this very important issue.

12 I join my colleagues from the FCC in thanking you
13 all for being here today to help us figure out the best
14 solution to these issues. I appreciate especially the
15 opportunity to probe further on the parties' positions and
16 to better understand the issues through questions.

17 The issues before us today are ones that are of
18 great significance to consumers nationally and to consumers
19 in my state. The issues here arise from the intersection
20 between competition and universal service.

21 Our challenge as regulators is to harmonize those
22 concepts so that consumers in rural high-cost areas also
23 receive the benefits of competition that other consumers
24 nationwide receive.

25 The time for this proceeding is ripe. There are

1 two areas in my state that are rural under the Act because
2 of population where we as a state commission have lifted the
3 rural exemption and a competitor has entered the market.
4 Consumers have responded positively to that opportunity.
5 Within the last couple of years, over 20 percent of the
6 rural customers in Fairbanks and Juneau have chosen a
7 provider other than the incumbent for local phone service.

8 We'll hear from both of the actors in that drama
9 on the first panel later on this morning. I think this
10 trend is likely to continue and spread to the rest of the
11 country.

12 We have a responsibility in this proceeding to
13 make sure that the essential support for high-cost customers
14 in those areas is preserved, while not creating artificial
15 barriers or artificial incentives in those markets for
16 companies who would also seek to serve those consumers.
17 Thank you.

18 COMMISSIONER DUNLEAVY: Good morning, and I, too,
19 am delighted to be here and I thank you very much for being
20 here with us today at 8:30 in the morning. Everyone looks
21 so bright-eyed, I'm a little intimidated.

22 I really greatly appreciate the efforts of all
23 those involved in making this hearing this possible, all at
24 the Federal Communications Commission who worked very, very
25 hard: the Commissioners themselves, and all of the people

1 who --, and I offer them and you my sincere thanks.

2 Now, obviously, all of us here hold universal
3 service access or universal access to basic
4 telecommunication services to be a critical public policy
5 objective. Equally obvious is the imperative to keep the
6 mechanisms by which we seek to achieve that objective
7 sustainable.

8 Of particular importance to that endeavor are the
9 issues involving the portability of universal service and
10 the designations of ETCs, which I believe are tremendously
11 important.

12 So I appreciate the opportunity this hearing
13 affords me to learn more about those issues and the possible
14 solutions that may be available. As important, however, as
15 these issues are, I have to note that there's an element of
16 irony in our being here today.

17 I think perhaps Congress included Section 254 in
18 large part because it feared that telecommunications
19 competition might never come to rural America, to deliver
20 new services at affordable prices in those rural areas.
21 Congress also had been told that competition in more densely
22 populated areas would threaten the support that had kept
23 phone service affordable in rural areas.

24 But, here we are today. Precisely because
25 competition has come to rural America. Even to some of its

1 highest-cost areas. Now, perhaps the time has come to
2 question some of our earlier assumptions and to consider
3 whether universal service support, in the future, should or
4 even can serve the same purposes it did before the Act.

5 In any event, I sincerely hope and pray that
6 whatever changes we recommend, and that the FCC may adopt,
7 will not make Congress's fear a self-fulfilling prophesy.
8 Thank you, Madam Chairman.

9 COMMISSIONER ADELSTEIN: Mix it up a little.
10 This is where we're going to mix it up later today, in
11 panels. Speaking of which, I'm really looking forward to
12 hearing from the panels this morning. Thank everybody for
13 being here.

14 We have -- a lot of work went into this, and, I
15 think our Chairs, Commissioners Thompson and Abernathy and
16 the staff have put together such a great balanced
17 representation from all sides. So I expect we'll see a
18 little heat and hopefully that will shed some light on these
19 issues.

20 I just think it's a real top priority, this
21 proceeding on portability, and to get it done quickly is
22 absolutely essential. And Commissioner Abernathy and I had
23 indicated that in a joint meeting recently how critical this
24 is to us -- and I know it is to all members of this joint
25 board -- to absolutely get the right answer.

1 We've got to afford regulatory certainty to
2 competitive ETCs, as well as incumbents, about what the
3 parameters are going to be, because there's a lot of pending
4 CETC requests, and any rules would apply to them as well.

5 It is my colleagues' opinion that it's crucial to
6 ensure the stability of the universal service environment to
7 receive these stresses on the binary product and --
8 sometimes for justifiable reasons, we have to make sure what
9 is and isn't justifiable.

10 We've got to ensure that companies that invested
11 in infrastructure to serve rural America and high-cost areas
12 are not subject to a framework that unintentionally
13 undercuts their ability to perform their critical universal
14 service function.

15 For example, there's some serious questions being
16 raised about the identical support rule. We'll hear about
17 that a lot today. In perusing the testimony, I found that
18 there was a lot of compelling arguments that competitive ETC
19 should receive money based on their own costs rather than
20 the incumbent LECs' costs.

21 For example, there's many examples of a party's
22 right to ask whether it makes sense to provide high-cost
23 loop support to CETCs that don't have and don't use wire
24 line loops. We need to hear from both sides of this issue
25 and get a -- and we're going to hear, I think, a really good

1 discussion of those issues.

2 And I think the FCC should lead by example in
3 this, as we're deliberating on the joint board about what
4 the right answer is, the FCC has pending before it a number
5 of ETC requests and we've got to demonstrate that we are
6 going to be very rigorous about the public interest test
7 that we do in evaluating those requests and, hopefully, that
8 can set the tone for continued discussions of this.

9 At a minimum, I think, in these, we should ask
10 whether granting ETC status to a competitive carrier will
11 bring benefits to a community that it doesn't already have.

12 We've got to find out what impact designation would have on
13 the overall size of the funds and on consumer bills. And
14 look at the support levels.

15 And we have to also determine whether a CETC
16 would serve only the lowest costs customers or if they're
17 doing real universal service in a given service area,
18 because universal service and competition are both two
19 pillars, key goals of the Act and we can't advance one to
20 the detriment of the other, but I think that we can
21 harmonize them to the extent -- greatest extent possible.
22 That's what I'm looking forward to leaning, about how
23 we're going to reach that balance, here today.

24 COMMISSIONER ROWE: Well, I can't quite say,
25 welcome, to high-cost America, but here in Denver I can

1 certainly say, welcome to the west and welcome to the Rocky
2 Mountains.

3 I will probably submit to the witnesses written
4 questions after the en banc is over that -- I will avoid
5 taking up quite so much of your time and give everyone a
6 chance to respond in more detail.

7 Universal service has been an extraordinary
8 success. I see the results every day in Montana, and that's
9 increasingly true for all of the different elements of
10 universal service. So I reject the idea of this -- maybe
11 too often it's been stated that universal service itself is
12 the problem.

13 But, instead, universal service does face
14 fundamental challenges that need to be addressed in order to
15 preserve and to strengthen the programs that are included
16 within universal service. And this referral, along with
17 ongoing work on contributions by the Commission and in
18 Congress, squarely addresses the most important challenges.

19 I want to say something about my colleagues.
20 This joint board is exceptionally actively engaged, as
21 you've all see that. But I'm really very pleased by the
22 focus that all of the members and staff have devoted to
23 every item that has been referred to this board, and
24 especially I am encouraged with the focus on this
25 proceeding.

1 I also wanted to note the active and, I think,
2 constructive interest among members of Congress who are
3 focused on these issues. That, I think, really has
4 encouraged all of us, all of us in the room, to be very
5 serious about our work. Based on appreciation of these
6 issues and increasing years of experience that we've all had
7 with the programs, really, I am encouraged that all sectors,
8 that all of the witnesses who are here today have offered
9 serious and valuable comments.

10 And that the joint board will be able to move
11 forward to much better outcomes in a number of these areas.

12 And to do it, I think, on a reasonable time frame. We are
13 committed to move ahead on this.

14 I'm going to be interested in quite a few topics
15 today, but some core issues that I would like to hear from
16 all of the witnesses about are the following:

17 The first is the relationship with universal
18 service programs and the issues here to advancing deployment
19 of an access to a robust network consistent both with the
20 goals of Section 254 and the goals of Section 706.

21 In other universal service proceedings -- as some
22 of you know, I have obsessed on the no barriers approach
23 that was originally developed by the Rural Task Force, and
24 that is very much not a platform specific comment that I
25 think is an underlying focus for much universal service

1 work. I would ask witnesses to address that issue.

2 Second, I'm very concerned that they develop a
3 much better understanding of public interest and how to
4 effectuate that. Related to that, how to deal with service
5 expectations. And there are, I think, two sub-issues under
6 the general topic of service expectations.

7 First is, who makes the decision? Do we need a
8 federal floor? Should there be primarily federal standards?
9 Should the FCC or the joint board remain silent and defer
10 entirely to the states based upon their experience and based
11 upon specific records?

12 Or, an approach that I've been suggesting in a
13 variety of contexts since the Act passed -- I have to use
14 the cooperative federalist approach -- involving best
15 practices or particularly the PURPA type standards -- Public
16 Utility Regulatory Policy Act standards -- this joint board
17 could develop. Could then -- I commend to the states for
18 consideration in their proceedings. There is some flavor of
19 that in that -- in Work Out Lifeline Linkup.

20 A second basic issue in this area is whether the
21 more appropriate approach is identical standards across
22 platforms, or whether perhaps even a more competitively
23 neutral approach might be standards that are platform
24 specific and platform appropriate. Again, there is good
25 work and good thinking on both sides of that. I would ask

1 witnesses to address that cluster of topics.

2 The third issue is the economic question of moral
3 hazard considerations. Does doing the right thing in a
4 specific case or trying to achieve a particular goal create
5 incentives for undesirable or inefficient behavior more
6 generally. There have been in this docket some effectively
7 moral hazard argument.

8 Ultimately, I think in the spirit of pretty much
9 254e, my goal is to ensure that the money that's spent on
10 universal service, and particularly on high-costs fund, for
11 today's purposes produce real value for all Americans.

12 The fact the programs have produced value I think
13 is the core reason of Congress and certainly this joint
14 board and very much myself included, have supported these
15 programs so strongly to date. So I very much look forward
16 to today's proceedings. Thank you.

17 COMMISSIONER ABERNATHY: Thanks to everyone on
18 the joint board for those introductory remarks. We'll now
19 move straight towards -- and, gosh, we're giving you an
20 extra ten minutes, guys. We're going to move straight
21 towards our first panel.

22 We divided the panels up according to topic,
23 because, as you can tell from some of the questions that
24 were posed both in the notice as well as by Bob Rowe, we
25 have -- Commissioner Rowe -- there's a ton of issues here,

1 so we tried to divide them up so we can focus each panel on
2 some of the specific challenges.

3 PANEL ONE

4 BASIS OF SUPPORT

5 The first panel will be looking at the basis of
6 support and it's key issue is, should competitive ETCs
7 continue to receive the same per-line support as incumbent
8 LECs or should it be support be determined on some other
9 basis. I thought what I would do is I'll just simply give
10 your name and your organization, avoid long bios, and we'll
11 go straight into the comments.

12 I'll introduce each panel as sitting down the
13 line. We'll let all of you talk first before we start to
14 the Q & A part because our questions may change depending on
15 what some of the other parties say or comment in response to
16 what others have said.

17 So, first why don't we start with Gene Johnsson
18 from OPASTCO, which is the organization for the promotion
19 and advancement of small telephone companies. Mr. Johnsson?

20 MR. JOHNSON: Thank you, and good morning. I am
21 Gene Johnsson. I am the chairman and CEO of Fairpoint
22 Communications, which is the holding company for 29 rural
23 telephone companies that operate in 18 states. Our
24 operating companies collectively serve about 225,000
25 customers scattered over 19,000 square miles.

1 Many of our service areas, such as Columbine
2 Telephone Company here in Colorado, are very high cost,
3 costly to serve. And without the cost recovery that we
4 obtain through universal service support, we would be unable
5 to provide the customers with affordable high quality
6 service -- I think it's the customer that we're really
7 talking about here -- comparable to what's being offered
8 here in Denver.

9 This morning I'm here on behalf of OPASTCO and
10 500 rural telephone company members, all of whom face the
11 same kind of issues that Fairpoint faces as we try to
12 operate in these rural areas. We're pleased that the joint
13 board has initiated this proceeding on support portability.

14 We're very concerned that the rapid growth in
15 funding to competitive ETCs is placing the future viability
16 of the high-cost program and affordable high-quality telecom
17 services to our customers at great risk. One of the
18 important recommendations that we think the joint board
19 should make is to calculate support for CETCs in rural
20 service areas using their own actual imbedded costs.

21 It would help us sustain the high-cost program,
22 and do so in a manner that's consistent with the '96 Act and
23 the objectives of universal service. Basic support on
24 imbedded costs would result in payments that are sufficient
25 but not excessive and specific to each carrier's own

1 circumstances.

2 It would promote compliance with the requirement
3 that support only be used for the provision, maintenance and
4 upgrading of facilities and services for which it is
5 intended. This will provide a much greater level of
6 confidence that consumers will receive some benefit, unless
7 the ETC receives support.

8 In addition, basing support on imbedded costs
9 would promote effective or efficient competitive entry in
10 high-cost areas, since carriers will no longer have
11 incentives to seek ETC status just to receive windfalls of
12 support that exceed their costs.

13 Also, utilizing the same support calculation
14 methodology for CETCs that's used for rural ITECs, ILECs is
15 competitively neutral. On the other hand, providing the
16 ILECs per-line support amount to carriers that have
17 different costs, different level of service, different
18 service areas, and different regulatory obligations and
19 different economies of scale is just the opposite of
20 competitive neutrality.

21 Cost calculations for all ETCs in rural service
22 areas should be based on network costs, not per-line costs.

23 This would ensure that every ETC receives official support
24 to achieve a network infrastructure investment in high-cost
25 areas that the program was intended to promote.

1 We believe the change in methodology for
2 calculating support should be made as soon as the FCC can
3 develop cost reporting requirements for these carriers. The
4 current portability rules have placed the viability of a
5 high-cost program in serious jeopardy and change should not
6 be delayed any longer than necessary.

7 Moreover, there needs to be a high level of
8 confidence at the high-cost program, which is ultimately
9 funded by the consumer, is not providing carriers with
10 needlessly excessive support payments and is being used for
11 its intended purposes by all carriers.

12 Thanks for inviting OPASTCO to participate in
13 this hearing, and I look forward to answering your
14 questions.

15 COMMISSIONER ABERNATHY: Thank you, Mr.
16 Johnsson --

17 MR. JOHNSON: How'd I do?

18 COMMISSIONER ABERNATHY: You did great. I'm so
19 impressed. It's a good start. Well, now I'll move on to
20 Mr. Leonard Steinberg, who's with ASC of Fairbanks, Inc.
21 Mr. Steinberg, welcome.

22 MR. STEINBERG: Thank you very much. Obviously
23 my name is Leonard Steinberg. I'm general counsel of the
24 Alaska Communications Systems. Thank you for this
25 opportunity to testify.

1 In my testimony, I have tried to focus on the
2 complex reality that universal service involves much more
3 than universal service funding. Many factors must be
4 considered in order to ensure quality services at affordable
5 rates in rural communities.

6 For example, Section 251(f) of the Communications
7 Act exempts rural carriers from unbundling obligations at
8 prices set by the states. Congress recognized that rural
9 communities often cannot support more than one
10 telecommunications network provider.

11 Improper termination of this exemption, which
12 occurred in the case of all three ACS rural LECs, puts
13 universal service in jeopardy.

14 Additionally, where a state commission sets union
15 rates at a deep discount without any regard for the ILECs
16 actual costs or reasonably forward-looking costs, as was
17 done in the case of the ACS rural LECs, universal service is
18 also put in jeopardy.

19 And, of course, the proper administration of the
20 USF is critical to sustainable universal service. When the
21 high-cost fund is used to support competitive ETCs that do
22 not take on any obligations to build and maintain
23 telecommunications infrastructure in high-cost areas,
24 universal service, again, is put in jeopardy.

25 The joint board must recommend several changes to

1 the system not only to preserve the fund, but to protect the
2 availability of quality service to our most rural
3 communities at affordable rates.

4 When a union based CETC takes a customer away
5 from ACS, it also takes away all of the high-cost support
6 ACS was receiving for that line. But ACS's obligation to
7 maintain that line does not cease. At the rate we are
8 going, it is becoming harder and harder for rural ILECs to
9 shoulder their considerable obligations based on their
10 shrinking revenues.

11 We doubt, frankly, that most rural markets can
12 truly sustain competition. We question the benefit to
13 society of supporting not just one, but multiple carriers in
14 markets that would not have any phone service but for that
15 support.

16 But if you are going to support multiple
17 carriers, we believe that support should be based on the
18 cost of the carrier seeking support. In order to receive
19 support, all ETCs should be required to demonstrate their
20 costs and that universal service funds are being used to
21 support services in high-cost areas.

22 Opponents of this proposal might claim that
23 unequal funding is not competitively neutral. But
24 competitive neutrality does not mean blindly disbursing
25 funds regardless of costs. It is understandable that

1 competitive ETCs want equal funding, but when asked about
2 equal obligations, including the obligation to document
3 their costs and build out facilities in high-cost areas,
4 competitive ETCs are not so enthusiastic.

5 ACS believes that competitive neutrality means
6 all companies that receive universal service funding must
7 take on the same regulatory obligations to act as the
8 potential carrier of last resort. That is what they may end
9 up becoming.

10 There's nothing competitively neutral about a
11 CETC windfall. It merely enables competitive ETCs to
12 undercut ILECs on price in the short term, but the ACT
13 requires that carriers use funds only for the purpose for
14 which the funds were intended.

15 In the long term, current funding policies will
16 be used to drive the rural ILECs out of the market and leave
17 behind CETCs incapable of guaranteeing universal service.

18 As stated in a petition we filed with the FCC
19 more than a year ago, we believe disbursement of high-cost
20 loop support to firms that fail to prove they have high
21 loops is inconsistent with the statutes requirement that USF
22 be used for the purpose for which it is intended.

23 While many changes are needed, ACS has proposed
24 one simple reform to the current rules. That is where a
25 CETC serves a customer using UNE's, the CETCs union loop

1 cost can be used as a reasonable proxy for the CETC's
2 unseparated loop costs.

3 Using union loop prices, CETC support can be
4 based on the CETC's own cost, rather than the higher cost of
5 the ILEC. In this way, the Commission can ensure that
6 universal service funds are used for the purpose for which
7 they were intended.

8 Thank you for this opportunity. I look forward
9 to your questions.

10 COMMISSIONER ABERNATHY: Thank you, Mr.
11 Steinberg. I'll now move on to Tina Pidgeon, General
12 Communications, Inc., GCI. Thank you for coming.

13 MS. PIDGEON: Thank you. Mr. Steinberg and I
14 were saying we kind of take this show on the road together
15 quite a bit these days. Thank you to the joint board for
16 including GCI on this panel.

17 GCI is a facilities-based wire line CLEC. Today
18 we offer service primarily using UNE loops and our own
19 switch, but starting next year, we will begin migrating to
20 cable facilities. The markets we currently serve as an ATC
21 range from Anchorage, a community of about 195,000 lines to
22 Fairbanks, of approximately 50,000 lines to Juneau, with
23 approximately 30,000 lines.

24 We serve the whole market, residential and
25 business. We offer a variety of service packages, including

1 a basic service rate at or below the ILEC's. We provide
2 broadband and dial up internet access.

3 And we have offered to share carrier of last
4 resort of responsibilities, where we have more than 35
5 percent of the retail market, which we do in Anchorage.

6 My message is simple. When carriers like GCI
7 compete with the ILEC to provide universal service, we
8 should receive the same amount of support per-line. Equal
9 per-line support was the right choice in 1997 and it remains
10 the right choice today.

11 First, equal per-line support maintains the costs
12 relationship between carriers competing in the market that
13 would exist in the absence of a subsidy. If the ILEC has
14 higher costs but receives a higher subsidy, it has no
15 incentive to become more efficient to compete with the CETC.

16 Second, equal per-line support permits the
17 delivery of competitive benefits to rural consumers. In
18 response to GCI's entry or ability to enter service areas,
19 the incumbent began to offer its own bundled offerings. But
20 these offerings have not been made available in ACS's other
21 service areas where competitive entry has not been approved.

22 Third, paying ILECs and CETCs based on their
23 costs is unworkable. CETCs, even ones like GCI, don't have
24 a network architecture like the ILECs, and there is not USOA
25 or other regulatory accounting system in place for CETC

1 networks.

2 So what should CETC support be based on? With
3 the difficulty unreliable and inconsistent determining of
4 CETC costs, that leaves ILEC support, which can be based
5 either on a model or on the ILEC's costs. I would like to
6 briefly respond to claims made by opponents of the equal
7 per-line support.

8 Where ILECs in particular have framed this issue
9 is to mutually exclusive options between universal service
10 and competition, perhaps in the hopes that they will
11 protected from competition through universal service policy.

12 But equal per-line support simply does not pose the sky is
13 falling scenario that rural ILECs have been selling.

14 First, there is not evidence that competition for
15 supported services poses a threat to ILEC survival. And, in
16 fact, Section 214 provides an express process to ensure that
17 carrier of last resort obligations continue to be met, if
18 indeed a service providers does determine to leave the
19 market.

20 Second, disaggregation plans allow ILECs to
21 establish CETC support according to both high and low-cost
22 zones. Some disaggregation plans may need to be redone as
23 competition develops, but the rules permit for that.

24 Third, as retail competition develops, regulatory
25 transitions may be necessary and can be adopted by state

1 commissions. For example, GCI's proposed retail rate
2 flexibility for the incumbent and to share carrier of last
3 resort obligations under certain market conditions.

4 Fourth, support level shouldn't be a proxy for
5 other concerns to the extent that the joint board is
6 concerned about the level and/or scope of service policy,
7 then it certainly has the option of adopting specific
8 service quality standards that should be applied in a
9 competitively and technologically mutual manner.

10 Finally, ILECs today plainly maintain a cost
11 recovery advantage under the current support basis. ILECs
12 continue to receive total network support while CETCs
13 receive only per-line support once they actually commence
14 service to a live customer. And ILECs do not lose support
15 when they lose a customer to a competitor.

16 If there is inequity in the current support
17 policy, this is it. And anything other than equal per-line
18 support would only exacerbate this disparity.

19 For these reasons, we urge you to retain equal
20 per-line support for CETCs and ILECs, and I thank you for
21 allowing GCI the opportunity to appear on this panel. I
22 look forward to your questions.

23 COMMISSIONER ABERNATHY: Thank you, Ms. Pidgeon.
24 And now we'll hear from David Cosson, who's with the Rural
25 Independent Competitive Alliance.

1 MR. COSSON: Thank you and thanks to the joint
2 board for inviting the Rural Independent Competitive
3 Alliance, or RICA, to appear before you this morning. RICA
4 represents over 75 rural CLECs who are affiliated with small
5 rural ILECs, about 20 of which are USF recipients.

6 This is an extremely important proceeding. Much
7 of the debate has focused on the difference between rural
8 ILECs and wireless carriers and the rapid growth of wireless
9 support. RICA's concern is really the opposite of that.

10 The portability rule, when it's applied to a
11 rural carrier serving a small portion of a very large
12 carrier, where that portion is high cost but the average
13 cost is low, there is no support. RICA's position,
14 therefore, is that cost recovery should be based on the cost
15 of the individual that rules CLEC and/or all CLECs.

16 A myriad of issues in this proceeding. There's
17 very hot debate, not only between the rural ILECs and
18 wireless carriers, but also, of course, the Alaska issues
19 which you've just heard about.

20 RICA proposes a pass between these two points of
21 view, which we hope can lead to, in fact, a satisfactory
22 resolution of the difficult issues and could be consistent
23 with the meaning of the Act and the requirements of the Act.

24 The present system fails the requirements of the
25 Act because there's not rational basis between the support

1 provided to a CETC and its costs or need for support. A
2 cost based system can be developed for CETCs using a
3 forward-looking cost methodology that will provide
4 sufficient support.

5 This would not require, then, CETCs to adopt a
6 CCUSOA or involve intensive regulation. It would adjust
7 support to deal with all the arguments concerning different
8 capabilities, different architectures, and so on.

9 And then, if this cost would be based upon
10 individual studies, if a model is used, the model has to be
11 optional because we've seen what the problems are with the
12 existing models. And costs, of course, should be determined
13 based upon network costs not on lines.

14 So, ironically, although we both represent rural
15 wireless -- wire line -- CLECs, our position is more like
16 that of the rural ILECs except that we believe a forward-
17 looking cost methodology should be used to adjust for
18 competitive process. Of course, it could be a two up
19 process amortization of a difference.

20 Again, thank you for allowing us to appear.

21 COMMISSIONER ABERNATHY: Thank you very much,
22 Dave Cosson. And now we'll turn to Don Wood, who's with the
23 Rural Cellular Association. Thanks for coming.

24 MR. WOOD: Yes, thank you. Good morning. The
25 Rural Cellular Association is an association of small

1 wireless companies that operate in over 135 rural and what
2 they're calling small metropolitan areas -- that's a little
3 grandiose; these are towns, not cities -- spread throughout
4 the country.

5 On behalf of RCA, I appreciate the opportunity to
6 provide information to you. And, as someone who grew up on
7 the family farm, I particularly appreciated -- as you'll
8 probably hear, I'm fairly passionate about some of these
9 issues.

10 The goals of the Act and the realization of the
11 stated goal of providing competitive alternatives in all
12 markets -- it's been a struggle, success hasn't always been
13 easy. And it hasn't always happened as quickly as many
14 people would have liked.

15 And, not surprisingly, it began in the more
16 densely populated areas and it has only begun to move out
17 into the rural areas. Most of the larger carriers have
18 focused on these more dense areas, and it's the smaller
19 carriers like RCA members that are dedicated to providing
20 competitive alternatives in rural America.

21 Before you accept anybody's invitation to tear
22 down the existing mechanism and fundamentally change it --
23 because a lot of suggestions here are fundamental changes --
24 I'd urge you to take a step back and look at where we are as
25 a result of the existing mechanism.

1 Significance in that -- significant investments
2 are being made in rural areas by CETCs. These are
3 investments that would not have been made without the
4 availability of high-cost support and portable high-cost
5 support.

6 Each dollar of high-cost support -- and I was
7 going to say, you know, this is a -- every dollar of high-
8 cost support is a dollar of investment that wouldn't have
9 been made, but that's actually not true, because these
10 dollars of high-cost support are being more than matched,
11 two to one, in fact, sometimes ten to one, by private
12 capital.

13 It's the funding, the universal service funding,
14 that makes the investment feasible. But that's not the
15 limit of the investment that's taking place. These
16 companies are consistently bringing in their own capital
17 into these areas and making these investments. And capital
18 begets capital.

19 A lot of work I do is on rural economic
20 development, and I consistently hear companies talking about
21 the need for wireless services, the need for advanced
22 services when they're looking at investing in a rural area,
23 relocating, opening up a new manufacturing facility, that
24 sort of thing.

25 This is absolutely vital to the people in these

1 areas. They're seeing competitive alternatives, they're
2 seeing the availability of service from a health and safety
3 issue standpoint.

4 This is something that's been kind of run
5 roughshod over in some of the comments, but I think it's
6 absolutely vitally important to recognize that a wireless
7 provider provides coverage throughout an entire area and
8 that provides an opportunity for people to reach family and
9 emergency services that simply does not exist and cannot
10 exist with a wire line network.

11 Now, the per-line support and the equivalency. I
12 don't think it creates a windfall, I think it actually
13 reflects, and accurately reflects, the incentives that were
14 there independently of the funding. And that is, if a
15 carrier has lower unit costs than the incumbent that is not
16 exaggerated under the current mechanism, it's simply
17 reflected.

18 If a carrier seeking to enter has lower unit
19 costs, the ILEC cost is the proper benchmark. That's the
20 right signal to the marketplace. Companies with lower costs
21 will choose to enter because it would be efficient.
22 Companies with higher unit costs will see the benchmark and
23 choose not to enter because it would not be efficient.

24 And as more carriers enter and the potential pool
25 of customers shrinks, the message to the marketplace changes

1 and adapts, and the mechanism is self-adjusting and prevents
2 inefficient entry.

3 Can you make it better? Yes, you can. You can
4 take per-line support to a level of economic cost. It was a
5 decision in '97, it was a decision two years ago, and it's
6 still the right decision today.

7 That will refine the signal to the marketplace,
8 it will provide a better signal, improve the efficiency of
9 entry, limit the size of the funds. Thank you.

10 COMMISSIONER ABERNATHY: Thank you very much.

11 And, finally, we'll hear from David Bergmann, who's with
12 NASUCA Telecommunication Committee.

13 MR. BERGMANN: Good morning. As -- I'm David
14 Bergmann. I'm an assistant consumers counsel with the Ohio
15 Consumers Council, but for today's purpose, I'm the chair of
16 the NASUCA Telecom Committee. NASUCA is the National
17 Organization of State Utility Consumer Advocates.

18 We represent the customers who are intended to be
19 the beneficiaries of the universal service provisions of the
20 Act. We also represent the customers who pay for the
21 universal service fund. So we have, we believe, a unique
22 interest here.

23 And in expressing that interest, I guess I would
24 like to mangle Shakespeare a little bit and say to my fellow
25 panelists, a pox on some of the rooms of your houses,

1 because there are some of the rooms of some of your houses
2 that we like.

3 We are concerned both about the adequacy of
4 support and about the total cost of the fund. And, in this
5 regard, I would say that we are especially concerned about
6 the growth in wireless eligible telecommunications carriers.

7 There is a potential for that growth to surpass
8 much of the growth that has already occurred. And under the
9 current conditions of the management of the fund, it would
10 be crazy for a wireless carrier not to seek eligible
11 telecommunications status.

12 Over all, our position is that we support using
13 each carrier's cost for support capped at the incumbent's
14 cost. We also support limiting support to primary lines,
15 which, of course, is the subject of the next panel.

16 And we support an effective definition of the
17 public interest that does not focus on supporting
18 competition for competition's sake, but assures that
19 customer will receive high quality service regardless of
20 their ETC, and that is the third panel.

21 We also support requiring ETCs to provide equal
22 access, which is something that has been deferred to this
23 portion of the case.

24 The -- in response to some of the remarks of the
25 other panelists here, I would emphasize that it is our view

1 that universal service support does not represent cost
2 recovery.

3 That you -- that our view is that we should use
4 embedded costs only for the smallest rural companies and
5 that carriers with high costs are to be supported rather
6 than using the high-cost carriers costs to support all of
7 the other carriers.

8 That's all I have to say at this point. Thank
9 you.

10 COMMISSIONER ABERNATHY: Thank you very much.
11 And, again, thanks to the panel for staying on time. And
12 we'll now start with the questions from members of the joint
13 board. I think what we'll do is we'll start down with
14 Commissioner Adelstein, work our way down, and then go back
15 around.

16 We're going to try and start with a question and
17 a follow-up. I don't know what we're going to do about
18 multiple compound questions, but we have spoken to
19 Commissioner Rowe. But, we're going to start down there and
20 see how many he starts.

21 You're going to get plenty of time. And then
22 we'll have follow-ups and, of course, I think that if any of
23 the commissioners have a follow-up to one of the other
24 commissioner's questions, you should feel free to engage at
25 that time so we don't have to go back to it.

1 Commissioner Adelstein?

2 COMMISSIONER ADELSTEIN: We heard a lot about
3 efficiency of the identical support rule and how it tends to
4 promote efficiency and the question I have -- maybe I'll
5 direct to you, Mr. Johnsson, about, if we're going to find
6 alternative solutions to the identical support rule, they've
7 got to be competitively neutral and promote efficiency.

8 So under such a framework, if you were to go away
9 from that, how could you ensure that CETCs have incentive to
10 minimize their costs if you were to base support on their
11 own costs?

12 MR. JOHNSON: Well, first of all, we're not
13 efficient carriers. In fact, the two competitive companies
14 here couldn't even keep their comments within three minutes.

15 Wireless competition: We have cable TV
16 competition, we have a tremendous amount of competition in
17 our marketplace already. So we have to learn to be
18 efficient, or we can't operate.

19 I believe that the ETCs have the same situation.

20 I think, what we've created as a circumstance where they
21 get an unreasonable level of public money -- and I'm not
22 concerned about what they get, quite frankly. What I'm
23 concerned about is providing great service to the customer.

24 And at the end of the day, as CEO of a company,
25 my concern is that this program blows up because there's too

1 much money, you know, out there going for this purpose
2 without being used in the public interest. And, as a result
3 of that, we don't provide good service to our customers.

4 So, at the end of the day, I just think it's
5 critical that we -- companies will operate efficiently, you
6 know, or they're not going to survive long term. There's
7 not going to be enough federal money, or any other kind of
8 money, coming from places other than from the customer that
9 you can run a business effectively and be able to survive in
10 the long term.

11 COMMISSIONER ROWE: I would like, initially, some
12 comments on the relevance, if any, of the -- of no-barriers
13 platform approach to these issues, and here comes the
14 compound part: In the Section 254 requirements that support
15 be used for the purposes intended, that would be useful,
16 but, again, the core of the question is, is there any
17 relevance to no barriers?

18 That's to anyone. Mr. Cosson is leaning towards
19 the microphone.

20 MR. COSSON: All right. By focusing support on
21 the cost of the universal service provider, the ETC, whether
22 it's ILEC or CETC, those costs can reflect the particular
23 technology by form of support.

24 And I think this is perhaps the difference
25 between Mr. Wood's position and of the RCA -- and the Rural

1 Cellular -- and the rural CLECs -- is that recognizing the
2 wireless, for example, as a radically different cost
3 structure -- and that's words from one of the wireless
4 commenters in the proceeding -- that whatever their forward-
5 looking costs are, it should reflect that particular
6 technology going forward.

7 And so, as you do that, you make sure that you're
8 not creating a barrier to the most efficient use of the
9 technology because you're not tying the support to somebody
10 else's technology.

11 MS. PIDGEON: Could I respond as well?

12 COMMISSIONER ABERNATHY: Sure.

13 MS. PIDGEON: I know you wanted to do -- the -- I
14 think both of the questions asked by Commissioner Adelstein
15 and Commissioner Rowe get to what is a fundamental question
16 when we look at the issue of the basis for support between
17 the carriers, and that is, what is going to be achieved by
18 providing support based on different carriers' costs?

19 I think one of the suggestions was that support
20 be based on the costs of individual carriers, but capped at
21 the ILEC rate. I think the incentive for competitive
22 carriers under that sort of system is entirely wrong.

23 Because what it does is, it would support a CETC
24 network to its greatest extent and, if it's capped at the
25 ILEC rate, then the only incentive for the CETC is to become

1 only as efficient, or only to have the same cost level as
2 the ILEC, rather than preserving the incentives for the CETC
3 to become as efficient as possible, so that it can reflect
4 the cost advantages that it may have in the market and its
5 pricing to consumers.

6 And by keeping the support at an equal per-line
7 basis, you actually preserve those incentives because it
8 maintains the cost relationship between the carriers that
9 would have otherwise existed in the absence of a subsidy in
10 the first place.

11 COMMISSIONER ABERNATHY: Commissioner Rowe, could
12 I do a follow-up for --

13 COMMISSIONER ROWE: Please.

14 COMMISSIONER ABERNATHY: -- Ms. Pidgeon? Here's
15 the dilemma from a regulatory perspective to the statement
16 you just made. If you looked at our public notice, when we
17 said that as an incumbent loses lines to a competitive
18 eligible telecommunications carrier, the incumbent recovers
19 his costs from fewer lines, thus increasing the per-line
20 costs, and with higher per-line costs, then the incumbent
21 receives greater per-line support, which is also available
22 to the incumbent eligible telecommunications carrier.

23 Under this scenario, it's hard for me to envision
24 anything other than an increase in support without very many
25 incentives to decrease or become efficient. And that's the

1 problem I have when what you're really looking at is a
2 subsidy not based on any sort of rational business model,
3 but a subsidy based on just, you know, high cost.

4 MS. PIDGEON: And that's why we've supported in
5 this proceeding, both implementing a cap on the per-line
6 support and the entry of a competitive ETC. And also, in
7 order to preserve incentives for the ILECs to continue to
8 compete for customers once you have a competitor in the
9 market, that, in fact, to make support truly supportable.

10 I think today what a lot of -- what's been
11 recognized is that, incumbents continue to receive entire
12 support for their networks, although competitors are
13 receiving on a per-line basis, but that there's really no
14 loss in support for an incumbent when it loses a customer.

15 And that also, I think, takes away some of the
16 competitive incentives for the two carriers in the market to
17 continue competing for carriers -- for customers -- back and
18 forth. Once a customer goes to a competitive carrier, it's
19 not lost to the incumbent forever.

20 The competition would say that the incumbent
21 should be trying to get it back, and it does that through
22 better service packages, better pricing, increased
23 efficiency.

24 MS. THOMPSON: I have a follow-up question on
25 that one, too, which is doesn't it really hinge on what you

1 mean by equal per-line support? If equal per-line support
2 is the same amount, it could be interpreted as the same
3 dollar amount, it could be interpreted as an equal method of
4 determining the amount of support.

5 I don't know now of a model that would allow us
6 to do that, but that's, you know, there's plenty of smart
7 economists in the world, maybe somebody can figure that out.

8 Wouldn't a model that uses the same methodology for
9 calculating support to all carriers really be more closely
10 aligned with appropriate economic incentives?

11 MS. PIDGEON: I think so long as that model
12 was -- the output of that model was applied in the same
13 manner to all the carriers in the market, that that would be
14 the case.

15 MR. WOOD: Commissioner, can I follow up on that?

16 COMMISSIONER THOMPSON: Sure.

17 MR. WOOD: Very briefly, and to something
18 Commissioner Abernathy said as well. If you look at capping
19 per-line support in terms of avoiding -- you, Commissioner
20 Abernathy, I think described as the ever increasing amount
21 upon competitive entry -- the response, then, is, well, you
22 know, isn't the incumbent like getting too little money over
23 time because the support is capped on a per-line basis?

24 And one thing that's concerned me going through
25 the comments is that there's blurring between cost causation

1 and that way that funding is currently being calculated.
2 The funding's being calculated on a total ILEC cost divided
3 by total lines basis.

4 And when you do that, it gives you the suggestion
5 that network costs are fixed somehow with the level of the
6 entire network and you're simply distributing them among a
7 fixed number of lines, or a given number of lines.

8 When you actually get into the cost causation,
9 and since this model certainly reflects this, you find that
10 the costs are not fixed at the level of the network, they're
11 fixed a much more discrete level than that. So this
12 exercise is not as simple as dividing total cost by total
13 lines in terms of calculating the relevant cost per line
14 going forward.

15 At the risk of putting an overly fine point on
16 it -- I guess I'll put an overly fine point on it. If we
17 were looking at some of these rural areas that are at issue
18 today, that frankly we're all talking about, and there were
19 no network there at all, I don't think it would be a
20 foregone conclusion whether a wire line or wireless solution
21 would be the most efficient way to serve that entire area.

22 Now, we can't start -- that would be an ideal
23 starting point in the exercise, because then we could find
24 out. We don't have that ideal starting point, we have a
25 current carrier in place. The current carrier's providing

1 very valuable services as carrier of last resort.

2 I think the threshold question is how do you get
3 the right signal to the marketplace? We want efficient
4 entry, we don't want inefficient entry, how do you get the
5 right signal?

6 The per-line support, based on the ILEC cost --
7 and I firmly believe it needs to be economic cost to fine
8 tune this -- gives a new entrant -- a potential new
9 entrant -- the right benchmark by which to measure
10 themselves, to know whether they are more efficient and
11 should enter and to know whether they're less efficient and
12 shouldn't.

13 Now let's look at the worse case scenario in this
14 so-called windfall. A lower cost provider -- and
15 everybody's been pointing to wireless as a low-cost provider
16 and I'll accept that in a lot of cases -- let's take it as a
17 low-cost provider -- they're coming into the area, they're
18 receiving per-line support based on the ILEC costs. What
19 are they doing with the money?

20 Well, they're not going to Vegas with it. They
21 have choices. They can invest in the area, operate and
22 maintain the facilities to serve that rural area.

23 The worst case scenario of ILEC costs being used
24 to provide support to a lower costs CETC is that you have an
25 accelerated network build-out by the carrier that everyone

1 just agreed was the more efficient, lower cost provider.

2 I'm having a hard time going through the comments
3 finding out -- figuring out -- why that's not good public
4 policy. You know, do we really want a national policy, of
5 figuring out how to discourage entry by a more efficient
6 provider. You know, if we do, then we're moving down the
7 right road. If we don't, then I think the right benchmark
8 is the one that's in place today.

9 COMMISSIONER ROWE: I think this has been a great
10 discussion. My follow-up question is, there's been some
11 discussion about the embedded and forward-looking methods,
12 everyone has read the RTF report on the problems applying
13 forward-looking costs to small companies.

14 I understood several of you to suggest that it
15 might be appropriate to use embedded costs for small rural
16 incumbents and forward-looking for competitive entrants. Is
17 that correct, and could you comment on that?

18 MR. JOHANSSON: I'll comment. Our position is
19 that we believe that you could arrive at an average schedule
20 or some other kind of costs for the competitive entry to
21 receive universal service support. We think it's remained
22 as embedded cost for the incumbents, the same approach
23 you've been using all along.

24 We think you could relatively easily arrive at
25 some kind of an average schedule type cost. Whether it's

1 forward looking or not, I'm not prepared to answer that
2 question.

3 MR. BERGMANN: If I could respond. It's our view
4 that forward-looking economic cost is the way to go on this.
5 We recognize that there is a problem applying any cost
6 model to the smallest ILECs. Therefore, while a workable
7 cost model is being developed for all carriers, we support
8 continuing to use the embedded cost for the smallest rural
9 carriers.

10 COMMISSIONER ROWE: Yes?

11 MR. STEINBERG: If I could just offer a couple of
12 comments. This question about forward-looking cost is not
13 something which is new and something which we don't have any
14 experience with.

15 We all know about forward-looking cost, and I
16 won't get us too far into debate over tiered pricing, but
17 the -- it's important to take a couple of lessons from what
18 we've learned from tiered pricing.

19 And what we've learned is that it brings to the
20 table the use of various F words. And it's not just forward
21 looking, but they turn out to be costs, but they turn out to
22 fictional costs and they turn out to be fantasy costs.

23 And providing support on the basis of fantasy
24 cost that have no relationship to reality, I submit will not
25 be a proper use of USF for the purposes for which it was

1 intended.

2 COMMISSIONER THOMPSON: I've got a follow-up
3 question for Mr. Bergmann --

4 MR. BERGMANN: Yes, ma'am.

5 COMMISSIONER THOMPSON: -- which was, you said
6 that all the smallest carriers should be exempt from this
7 forward-looking cost model. How do you define that pool?
8 Is it the same or different than the pool that's now
9 identified as rural carriers under the Act?

10 MR. BERGMANN: What -- the position expressed in
11 our comments is that the largest of the carriers that are
12 currently classified as rural carriers should be moved in a
13 rapid fashion to a forward-looking economic cost test. It's
14 only the smallest ones who would remain under the embedded
15 cost test.

16 STATE CONSUMER ADVOCATE GREGG: Mr. Bergmann,
17 following up on your comments. Would those largest carriers
18 be those that serve 50,000 lines or more?

19 MR. BERGMANN: That's the number that's in our
20 comments, yes.

21 MR. COSSON: If I could respond a little bit to
22 all three of those questions. The process of determining
23 support amount as it's done today with the embedded cost or
24 the model for that matter, you know, that's only the first
25 step.

1 And the second step is, how much cost there is,
2 to the extent that you want to retain embedded cost for the
3 small ILECs and have competitive carriers on a forward-
4 looking cost.

5 That -- it doesn't necessarily mean, then, should
6 you plug both of those numbers into the same formula, if you
7 need to have all three pieces of the equation so that you
8 can recognize that forward-looking cost may produce a
9 different answer and develop support accordingly.

10 And the other side of that response is, it's
11 important to emphasize -- in RICAs position -- and recognize
12 that small ILECs great concern was the use of the model --
13 the FCC model -- was clearly shown not to be a valid
14 predictor of the cost of any particular rural area.

15 RICA's conception of forward-looking cost study
16 is more one that would be presented to a lender saying, this
17 is what it's going to cost me to build this new area, for
18 example, that Mr. Wood has talked about.

19 COMMISSIONER ABERNATHY: As a follow-up to this
20 whole debate about embedded versus forward-looking, I think,
21 as Mr. Wood here said, that it should be -- we should be
22 sending the right signals to the market.

23 MR. WOOD: Yes, ma'am.

24 COMMISSIONER ABERNATHY: So, if you want to send
25 the right economic signals, aren't you really trying to have

1 a business decision made based on what it would cost you, a
2 carrier, to go in and serve this area above some threshold
3 where you know at a certain threshold you'll get support or
4 not.

5 Looking back toward someone else's embedded cost
6 seems to me not to be the right pricing signal because
7 that's not really relevant to the question of, is this a
8 good market where an efficient carrier can go in and start
9 offering an alternative to the incumbent. I'd just like a
10 comment on that.

11 MR. WOOD: Yes, ma'am. And I think you're
12 exactly right. I mean, let's remember why we have embedded
13 costs and USOA in the first place, and it's because, you
14 know, for monopoly -- statutory monopoly -- providers, we
15 don't have, by definition, competitive market forces to find
16 out what the economic costs are.

17 It's nothing artificial about that, I won't use
18 the F words to describe them. And those are the
19 economically relevant costs. Now how do we get to the best
20 estimate of those, because that is -- exactly what you
21 said -- that's the right benchmark. That's what the CETC
22 has already been measuring themselves against.

23 I've spent a fair amount of time going through
24 all the cost models, and I've been revisiting the SCM just
25 in the last couple of weeks, and, you know, the conclusion

1 that the model can't perform well in these low density areas
2 because it doesn't reproduce existing embedded cost, I'd
3 almost find it favors to reproduce embedded cost to be a
4 vote in favor of, not against.

5 There are some disparities in cost that, I think,
6 are fully addressable. There's a line count disparity that
7 I've been looking at that I don't think people have talked
8 very much about.

9 If you look in the SCM right now, for given
10 service areas it's showing a much lower line count than
11 what's being reported to NECA by the rural incumbents. If
12 the line counts are understated, it's going to overstate --
13 cause the model to overstate the cost. So we certainly need
14 to look at that.

15 But at the end of the day, that is exactly the
16 correct measure of cost. And let's don't forget, the
17 model's not, you know, to suggest that the model's biased
18 toward the lowest density areas, the zero to five lines per
19 square mile, ignores the fact that for the tier one LECs
20 today, there's a significant number of lines in those lowest
21 density areas. We're using that model to determine support.

22 The suggestion that there's a bias in favor or
23 against a company size, I pulled the SCM results for
24 Mississippi, which seems to be everybody's favorite high-
25 cost state. And I looked at South Central Bell versus about

1 a dozen rural independent companies.

2 And if there were a bias against the small
3 companies, I would have expected their costs to line up over
4 here, with South Central somewhere down at the other end of
5 the spectrum. It turns out -- what the model's reporting is
6 South Central almost dead center of those dozen or so small
7 independents. There doesn't appear to be an independent
8 versus our bought size company bias in the model, based on
9 those results.

10 So there's some work to do on the model, but I
11 don't think we're that far away from having a viable tool to
12 send the right signal.

13 MR. JOHNSON: Can I comment on that, please?
14 I'd like to say, respectfully, that we operate 29 companies
15 from 500 access lines to 30,000. The cost to provide the
16 infrastructure and to operate -- the day to day, on the
17 street operation -- of those companies is dramatically
18 different. And I'll be glad to sit down and show it to you
19 and prove it to you.

20 We have something that we take very seriously,
21 and that's obligation to serve the customer. And that's
22 every customer. That's every consumer out there we have an
23 obligation to serve.

24 And, you know, there's certain costs involved in
25 that. Those costs are much higher in low density areas than

1 they are in high density areas. And when you look at -- try
2 to compare -- SBC or any other company -- I've looked at an
3 awful lot of telephone companies in this country that have
4 been for sale from time to time, and had a chance to dig
5 into their books -- and I can tell you that the big --
6 larger -- companies are providing internal subsidies to
7 those rural areas and that's the only way they're providing
8 the service to those rural areas.

9 The smaller companies -- you know, the 1,000
10 access line company operating in Montana -- has no ability
11 to provide any internal subsidy anywhere. And their costs
12 are substantially higher, and if they don't -- aren't able
13 to recovery those costs through some mechanism other than
14 directly from the customer, the customer will end up being
15 disenfranchised and leaving the public network.

16 I'm absolutely convinced that's what's going to
17 happen if this program falls apart.

18 MS. PIDGEON: Commissioner. Commissioner
19 Abernathy, can I respond directly to your --

20 COMMISSIONER ABERNATHY: Why don't I let
21 Commissioner Rowe give you his follow-up and then see how
22 you can --

23 : I apologize to Tom. I want to push that just
24 a little bit, Mr. Wood. I think your comment was
25 provocative, but maybe somewhat a historical. And it seems

1 to be part of the reason we have this tension, is that, in
2 fact, universal service was initially a method to allocate
3 and recover costs within a network.

4 I mean on an overlay of the 254 purposes, but
5 still with -- dealing with access issues and whatnot, we're
6 still, in many cases, driven by the need to in some way, now
7 more explicitly, recover these historic -- recover and
8 allocate -- these historic costs. You have recognize that
9 history to get the point you're describing.

10 MR. WOOD: Well, that's right. And I think it's
11 absolutely critical that you recognize the time element to
12 this. You know, certainly the existing -- the incumbent
13 LECs have the carrier-of-last-resort obligation.

14 And I want to disagree with my colleague about
15 other carriers and other ETCs not having a similar
16 obligation because, of course, they do and, I'd say they
17 have the same commitment.

18 To expect them to come in and serve an entire
19 area on day one holds them -- the CETCs -- to a standard
20 that the incumbents were never held to. The incumbents
21 didn't come in and serve their areas -- the entire area on
22 day one with a full build-out. They built out over time,
23 receiving support, until they served where they are today.
24 You know, we can't -- that's not the right basis for
25 comparison.

1 In terms of ultimately getting to the original
2 purpose of universal service, which I don't think, on a
3 long-term basis, is at odds with the 254 overlay. Is --
4 we've got to go through -- it's a pain. There's no other
5 way to put it. There's a transition here that no one ever
6 said, Congress never said, it was going to be easier or
7 pain-free or costless, and it's not going to be.

8 If you shut out competitive entry, if you shut
9 out lower-cost providers, then you are instilling into
10 perpetuity the existing cost base of the incumbent in terms
11 of what you must fund to meet those original purposes of
12 universal service to get down to the last-resort obligation.

13 If you have the right incentives to the
14 marketplace, if a lower-cost provider can build out over
15 time -- hopefully less than a few decades, but it's going to
16 take some amount of time to do that build-out -- and they're
17 a lower total cost solution for that area, then you get back
18 to the ALENCO decision -- this is about lower-cost solution
19 for customers, not carriers.

20 What you must then fund long term, if anything,
21 if a lower total cost solution. So, I don't think if you
22 looked at this on a long term basis, these things are --
23 necessarily there's a tension -- short term, of course,
24 there's a tension.

25 Longer term, I think, you know, we've got to look

1 at what we want to fund long term. Do we want to take
2 what's in place today and fund it forever? Do we want to
3 send the right signal to the marketplace, have new providers
4 come in and fund something less or nothing long term?

5 COMMISSIONER ABERNATHY: Tom?

6 VOICE: Commissioner, if I might offer a comment.

7 COMMISSIONER DUNLEAVY: I just think it's very --

8 COMMISSIONER ABERNATHY: We're going to let him
9 go and then --

10 COMMISSIONER DUNLEAVY: I think it's very, very
11 important that we note that Commissioner Rowe adhered to
12 that admonition and there was no compound question that was
13 involved. Having said that, now I'm going to return to
14 something that's a little different and a simplex question.

15 Now, does sufficient support mean sufficient to
16 ensure that each carrier that might seek to provide service
17 could own a fair return? Or does sufficient mean to ensure
18 that customers receive reasonably comparable service and
19 rates regardless of which carrier actually provides the
20 service or which technology is used?

21 And I think I heard both Mr. Wood, Mr. Steinberg,
22 and certainly Mr. Johnsson address that issue. Maybe you
23 could help?

24 MR. STEINBERG: Yes, actually that fits well with
25 some of the comments I wanted to make because I think we do

1 have to keep in mind that what this really is about is about
2 consumers and being able to ensure that consumers receive
3 comparable service at comparable rates in rural areas to
4 what is provided in urban areas.

5 I can tell you that some of the comments that
6 have been made here are not quite accurate. Certainly not
7 in our experience. When competition is provided over a
8 union line, we do not maintain our levels of universal
9 service support. They diminish.

10 And I would simply point you to Section
11 54.307(a)(2) of the FCC rules and to the provision that
12 talks about the incumbent receiving the difference between
13 what the CETC receives and what the ILEC would have
14 otherwise received. And we do lose support.

15 Now, what's the impact of that? In part,
16 responding to something that Commissioner Adelstein asked
17 about earlier, we have great incentives to be efficient. We
18 have cut costs and, in fact, when we've compared out cost
19 structure to the cost of similar companies, we find that we
20 are amongst the lowest cost companies providing the service
21 where we operate.

22 But, most importantly, what we have found is,
23 with competition, our actual rates of return have diminished
24 so levels well below what's authorized. What's the impact
25 of that diminished rate of return? The impact is, we have

1 cut our capital investment and, in fact, we have even
2 reduced our maintenance expenses. So we're now approaching
3 areas where we're not investing new capital in the network,
4 we are not able to maintain the network to levels that we
5 have historically.

6 And the question is, is this -- this isn't just
7 about us. This is about the consumer. It is the
8 consumer -- not today, perhaps not tomorrow, but down a road
9 a little ways is a consumer that is going to suffer from our
10 inability to invest and our inability to maintain the
11 network.

12 MS. PIDGEON: Could I --

13 COMMISSIONER ABERNATHY: Go ahead, jump in.

14 MS. PIDGEON: I do understand what the rule says
15 about incumbent carriers losing support, but I think it's
16 been widely recognized to the -- upwards of this proceeding
17 that in practice is not actually what's happening.

18 And I'll also add that, well, if ACS is one of
19 the most efficient carriers, I can't say that GCI is paying
20 one of the highest loop rates in the country in order to
21 provide facilities-based competitive service.

22 And to the extent that, if a particular carrier
23 does claim to be reducing maintenance, reducing investment,
24 I do think that in the context of this proceeding, there
25 should be a deep and serious consideration of what the

1 causes are and look at those that are directly related to
2 universal service policies, or instead perhaps related to
3 business decisions made by a particular carrier or carriers.

4 If we base universal service policies based on
5 claims of carriers stopping investments or their claims that
6 they will no longer invest because of universal service
7 policy, I think there should be support or some tie there,
8 and I don't think we've seen that.

9 In fact, I think, with competition, there should
10 be the incentive to invest, the incentive to improve
11 services, the incentive to compete for customers.

12 COMMISSIONER THOMPSON: I have a follow-up
13 question to a line of inquiry, if Commissioner Dunleavy will
14 allow --

15 COMMISSIONER DUNLEAVY: Please.

16 COMMISSIONER THOMPSON: -- which is the support
17 mechanism that Mr. Steinberg identified is one that I have
18 wondered whether we should be considering preserving.
19 Basically, when a competitor enters a service area and
20 provides service for UNE's, the ILEC does not lose all
21 support. The ILEC gets the margin, as you pointed out by
22 the citation.

23 How is that good economic policy? Why should we,
24 or should we continue to provide for a mechanism like that
25 going forward for rural support and not -- how does that

1 create the appropriate market incentives?

2 I'm interested in hearing not just from the two
3 of you that I have the pleasure of hearing from frequently,
4 but from the rest of the panel as well.

5 COMMISSIONER ABERNATHY: Nobody else wants that?
6 All right.

7 MR. WOOD: The issue in Alaska is somewhat unique
8 in -- compared to what other CLEC see in other parts of the
9 country because the rural companies that we represent are --
10 built their own facilities -- they have built their own
11 facilities because the existing large companies have not --
12 have ignored the rural areas, the remote areas, for a long,
13 long time.

14 And these rural CLECs have come in, built new
15 facilities, they've taken a very large market share as a
16 result of that.

17 So this really goes to Commissioner Dunleavy's
18 question, the consumer has benefited because they have
19 provided very substantial improvements of service. It goes
20 to Commissioner Rowe's question because the new platforms
21 they have built provide for advanced services as one of the
22 goals of the Act going forward.

23 But the UNE based issue is, you know, and even I
24 see from GCI's sake, yes, it may seem as a temporary
25 situation. I think, now everybody wants to get on to their

1 own facilities, if they can, going forward.

2 Where the customers benefit in -- from the rural
3 CLEC receiving proper support is that they can provide
4 services. Large companies simply won't build out into these
5 rural areas. You know, unless you have an FCC and state
6 commissions that are willing to get in on an exchange by
7 exchange basis and say, look, are you doing the right job
8 here, or there, or not.

9 I think it's a practical matter that isn't going
10 to happen. Instead it has to be that the support has got to
11 be available. In that case, these companies have really
12 replaced the incumbents and, in fact, I know one of them has
13 asked the Commission to ask the FCC to be declared the
14 incumbent and we're waiting for some results of that.

15 COMMISSIONER DUNLEAVY: Thank you. May I just --

16 COMMISSIONER ABERNATHY: Sure.

17 COMMISSIONER DUNLEAVY: I just want to ask
18 something, and I'm not looking for a specific answer, but at
19 some point in time, maybe someone either on the panel, up
20 here, or in the room can help me out. You know, I've heard
21 here, and I've read here, and I've used many times the
22 expression carrier of last resort, provider of last resort,
23 and I've never seen a legal definition of that.

24 You know, it's like porn. I know it when I see
25 it, but maybe someone could, at some point in time, and as I

1 said, not necessarily here, but if you know of a citation,
2 maybe you could help me. Mr. Steinberg?

3 MR. STEINBERG: Yes, I will give you a citation
4 to a docket in Alaska, UO297, in which case we addressed an
5 issue whereby our competitor, my colleague on my left's
6 company, wanted to provide service to a customer that did
7 not have facilities to that customer.

8 And we, the incumbent, were ordered to build the
9 facilities and to provide them to our competitor at a
10 discounted UNE lease rate in order for them to provide
11 service to that customer. That sounds a lot to me like we
12 got stuck with the carrier of last resort responsibility and
13 I just refer you to that docket.

14 COMMISSIONER DUNLEAVY: Thank you.

15 STATE CONSUMER ADVOCATE GREGG: As a follow-up to
16 that, would the panelists agree that, under 214(e) of the
17 Act, that when you become an ETC, whether you're an
18 incumbent or a competitor, you have taken on the
19 responsibility of serving everyone within your designated
20 service territory whether you physically have facilities to
21 serve them at that particular time or not?

22 MR. JOHNSON: I would absolutely agree with
23 that.

24 MS. PIDGEON: I agree with that also, and the
25 CETC also, once it is approved as an ETC under 214, also

1 bears the possibility that if a carrier leaves the market,
2 that within one year that the remaining ETC will have to
3 secure facilities to serve the entire market.

4 STATE CONSUMER ADVOCATE GREGG: Do you agree, Mr.
5 Wood?

6 MR. WOOD: Yes, sir. And I think there's --
7 it's -- talk is cheap I guess, but, you know, when you look
8 at some of the member companies that I'm speaking for today,
9 these are companies -- you know, we're hearing down the
10 table that companies don't want to invest in an area.

11 These are companies that are looking to pour a
12 significant amount of their own capital, far in excess of
13 the high support fund dollars, into the area to serve it.
14 You know, that's a real commitment that needs to stand for
15 something.

16 These are carriers trying to serve these areas.
17 They're not going to do it in a month with their own
18 facilities. No one ever has. They're certainly going to
19 build out as quickly as they can, as quickly as their own
20 capital and the support funds permit.

21 STATE CONSUMER ADVOCATE GREGG: Based on that
22 requirement to serve everyone who asks within your service
23 territory and following up on the requirement in 214(e)(4),
24 that you may be the sole ETC if the incumbent abandons the
25 territory. Would you all agree that by becoming an ETC, you

1 are, in effect, each providers of last resort in your
2 service territory?

3 MR. JOHNSON: I would agree that certainly ought
4 to be. I think one of the problems we're talking about
5 here -- it strikes me as -- I don't know any other business
6 I've ever seen where one side of the business is highly
7 regulated and receives public support to help recover some
8 of its cost to provide service in very high-cost areas, and
9 the other -- competitors come into the marketplace not
10 highly regulated.

11 You know, when I spend money for cap ex I have to
12 report to the various commissions that I operate in what I'm
13 spending that money on, show them that it's -- that any
14 public money is going for the appropriate purpose.

15 I find it, quite frankly, hard to believe that
16 people would expect receive public monies without some
17 obligation that goes along with that. It just blows my mind
18 as a consumer, not as a telephone guy, but as a consumer.

19 STATE CONSUMER ADVOCATE GREGG: Would you agree
20 that under 254(e) of the Act, that state commissions, and
21 the Federal Communications Commission in lieu of the state
22 commission, have the authority to review the receipt and
23 uses of universal service monies by all ETCs?

24 MR. JOHNSON: Absolutely, and I believe that
25 they're not adequate standards. There's a panel that met

1 later this afternoon and, quite frankly, I wish I was on
2 that panel because I have very strong opinions about that
3 subject.

4 VOICE: And, Mr. Gregg --

5 MR. STEINBERG: Can I just follow-up on that very
6 briefly. I would say that, not only does -- through the
7 states and the Federal Communications Commission in
8 particular, have that opportunity, I believe they have a
9 duty to apply the Act, the provision of 254, properly to
10 ensure that the money is used for the purposes for which it
11 was intended.

12 MR. WOOD: Yes, and certainly USAC has audit
13 capabilities. I have a concern that they've used those
14 fairly selectively in terms of CETCs and not IETCs. They're
15 certainly more than anecdotal evidence that there's very
16 good reason to keep a very close tally of how all carriers,
17 incumbents and competitors, are using these funds.

18 MR. COSSON: Let me suggest -- in our original
19 comments, we did point out there's a conceptual issue, that
20 our ruling needs more definition and thought because if you
21 are any kind of enterprise, you're receiving funds from
22 multiple sources, you're spending them on multiple services,
23 how do you decide where the money goes? It doesn't come in
24 in color codes dollars, so you can't really say, well, you
25 know, I got this dollar here and I spent it there.

1 STATE CONSUMER ADVOCATE GREGG: So you would --

2 MR. COSSON: And so there needs to be more
3 rigorous, you know, thought and some kind of way --
4 because -- and just -- you know, as an attorney representing
5 these folks who are signing these certifications, I would
6 rather see if defined more clearly what it is they are
7 certifying to than have a regulator come in and say, well,
8 you know, we haven't defined it before, but we know it when
9 we see it, and you're not doing it.

10 I'd rather, you know, have it defined so that,
11 then, they can be sure that their certifications are
12 correct.

13 STATE CONSUMER ADVOCATE GREGG: So I take it you
14 would agree that universal service money should be spent on
15 incremental improvements to the network, not in place of
16 those cap ex expenditures who are already being made
17 historical?

18 MR. COSSON: No, I do slightly disagree with you,
19 Mr. Gregg. I think universal service is, in fact, directed
20 toward all of the cost of the carrier, which include both
21 discount capital cost and its operating cost, because,
22 remember when we're done with the build-out that Mr. Wood's
23 clients are putting together, you know, there -- certainly
24 in small companies, capital investment is lumpy. It's not a
25 continuous process like the large companies.

1 So you get to a point where, you know, you have
2 your ongoing capital cost, it is the cost of equity and
3 debt, but you do not have new -- necessarily new -- capital
4 expenditures each and every year, but you do have operating
5 costs.

6 And I think universal service support properly
7 goes to those operating cost as well as the capital cost. I
8 mean, that being said, you know, the fact that you had
9 capital expenditures to serve people that weren't receiving
10 service before is certainly a proper use of universal
11 service funds.

12 COMMISSIONER ROWE: Does that go back to that
13 tension again between the historical purposes of cost
14 allocation and the 254 purposes?

15 MR. COSSON: Yes, I would say. And, in fact, I'm
16 not even sure that the historical version of cost allocation
17 and cost recovery necessarily goes away, and that, I think,
18 is consistent with our position that support should be based
19 upon the cost of the particular carrier because Atkins Act,
20 you know, would tie to the cost that -- showing that it is
21 cost recovery.

22 If it's not cost recovery, why do you need it
23 for? And if you don't need it, why should the public
24 support it. So, you know, but then the need should relate
25 particularly to the platform that's being used. So, you

1 know, we shouldn't -- one size fits all cost doesn't work.

2 COMMISSIONER DUNLEAVY: Excuse me. If I may?

3 So, if I understand it, in an area where there are two ETCs
4 that are providing service and they have different costs,
5 would you expect that the fund would then support the higher
6 cost ETC?

7 MR. COSSON: In -- well, take the example of say
8 where you have both a wireless and a wire line ETC. In
9 fact, a lot of cases now have an incumbent wire line,
10 perhaps a competitive wire line, and a wireless ETC.

11 What I'm suggesting is that the fund should look
12 at the cost of each one of them, but, yes, you would have
13 multiple support now and on -- there's certainly a tension
14 in that, or a discussion of it, but the Act is pretty
15 specific that it contemplates that support will be provided
16 to multiple ETCs.

17 I don't think, without changing the Act, you
18 know, the really difficult task this joint board has to deal
19 with is, you know, what's a rational way to deal with that
20 situation. How do you define whether there's a need for
21 support, you know.

22 And that's, I guess, why are you getting the big
23 bucks up there. That's a difficult question.

24 MR. JOHNSON: Could I -- if I could interject
25 one thing there. I think that's where the public interest

1 question really comes in. There's some areas of our
2 country -- and when you leave here, those of you who are
3 flying east, just look out the window of the airplane -- and
4 there's some areas of our country there's not a lot of
5 houses in. There's not much density.

6 There may be natural monopolies in this company.

7 If someone makes the determination that even though it's a
8 natural and will remain a natural monopoly, if it's in the
9 public interest that we spend the money to support multiple
10 carriers in that service area, then so be it.

11 But we have to base it on those carrier's cost,
12 not on some kind of proxy, the proxy being what my cost are,
13 for instance. I mean, we -- it's public money we're talking
14 about here and we shouldn't just be wasting it.

15 COMMISSIONER ABERNATHY: Go ahead.

16 MR. STEINBERG: If I could also respond to
17 Commissioner Dunleavy's question here, just very briefly.
18 Actually one point of agreement that I may have with Mr.
19 Wood here, is that nobody builds these networks overnight.

20 And that the companies that we represent came in
21 to serve consumers, making investments that are, in many
22 cases, long lived investments, investments that we don't
23 expect to amortize in a year, two years, five years. Many
24 of these are ten, fifteen, twenty year investments.

25 We were asked to make these investments to help

1 bring services to consumers. I think that has to be
2 recognized when you think about changes to the universal
3 service funding mechanism. Many of those capital
4 investments still need to be amortized.

5 COMMISSIONER THOMPSON: How would you define
6 those? How are we, as regulators, to determine which areas
7 should not -- competition should not be allowed?

8 MR. JOHNSON: I guess it's a lot like porn,
9 Mr. -- Commissioner Dunleavy made the statement. It's a
10 very difficult question, but at the end of the day, I think
11 it's a question of how much support -- as an example, let's
12 say you have a company that gets, you know, \$100 a month in
13 support -- universal service -- maybe they're company's out
14 there that get that -- per customer.

15 Is it reasonable to give \$200 a month so that
16 those very few customers can have access to more than one
17 provider? I don't know the answer to that question. It's
18 not my job to answer those kinds of questions.

19 But I would ask the question, at some point it
20 seems that it's illogical for the public to support, you
21 know, those very, very rural areas, you know, people choose
22 to live there for whatever reasons, but, you know, we don't
23 necessarily have to provide them the opportunity to have two
24 or three different telephone providers, or communications
25 providers, in those market places.

1 It's a difficult job and I know I don't have an
2 easy answer for you.

3 COMMISSIONER ABERNATHY: I'm going to go on now
4 with another question that flows a little bit from what
5 you're talking about, and then we'll move on down the line.

6 And that is, today, with no changes to the way that ETCs
7 are designated today and the way they're funded today -- and
8 this is really directed to Dave Cosson and Don Wood -- how
9 do your companies decide which markets to enter?

10 What do they look at? Are they already there as
11 wireless providers? Are they already serving adjacent
12 areas? What are the economics that they go through when
13 they make a decision about entering? And what part of that
14 analysis rests on the amount of per-line support?

15 MR. WOOD: That's an excellent question.

16 COMMISSIONER ABERNATHY: I like this guy. Go
17 ahead.

18 MR. WOOD: They look at a couple of very
19 important factors. They look at their ability to serve that
20 area with their technology and with their facilities,
21 because the characteristics of that area may be more
22 suitable for wire line, it may be more suited for wireless,
23 there may be not a big distinction. But they look at their
24 cost to do that.

25 They look at other carriers that might already be

1 in that market because if there's a fixed number of
2 potential customers, the share that they might capture
3 will be lower and that's going to really increase perhaps
4 their unit cost and their ability to survive once they
5 enter.

6 That's part of the self-correcting mechanism that
7 keeps too many carriers from entering under the existing
8 mechanism, because they're going to look at exactly that.
9 Who's already there? What market is left for me?

10 Then they're going to look at this benchmark of
11 support which is the proxy in this case for ILEC cost. Can
12 we beat it? Can we not beat it? If it's equal, if it's a
13 little less, and if we've got a better service, entry makes
14 sense.

15 Now it doesn't just make sense from the
16 standpoint of my member companies, it makes sense from a
17 public policy standpoint. That's where you want to see
18 entry occur. In the natural monopoly example that was given
19 before, that's the circumstance where entry would not occur.

20 You're looking at those support amounts, you
21 would see the correct signal to the marketplace. If a
22 carrier can serve the entire area with a total lower cost
23 solution, they should be doing so. If they can't with some
24 portion of the customers -- you know, these people make cap
25 ex expenditures on a fairly reasoned basis. They don't go

1 where they can't recovery their money.

2 And remember they're -- you know, it's -- to
3 respond to Mr. Gregg's question before about, you know, this
4 conceptual debate about whether this is incremental money or
5 substitute money in terms of cap ex.

6 It's been a conceptual debate for a while, but
7 recently -- we now have carriers actually receiving funds
8 doing network build-outs in the last couple of quarters, and
9 we're finding is that they're not just substituting capital,
10 they're saying, I see your 500,000 in support, I'll raise
11 you 2 million of my own capital. And that's the kind of
12 expenditures that are being made.

13 They consider all of those things. In the short
14 term -- there's been some kind of convergence between your
15 question and Mr. Dunleavy and Mr. Rowe -- on what do you do
16 with carrier of last resort in terms of making that entry
17 decision.

18 You know, in the short term, there's a necessary
19 evil, and by here I mean the circumstances, not the
20 incumbent certainly, but in terms of the traditional purpose
21 of universal service, there's going to be that period of
22 time when there's only one carrier that can serve the entire
23 area with its own facilities.

24 And during that period of time, we're going to
25 have to continue to support that carrier, ideally on an

1 economic cost basis. Once there are multiple carriers, then
2 you're past that point. You could have a different carrier
3 serving with those obligations.

4 And then you're looking purely at who's the lower
5 total cost solution, that's who ought to be there. Will the
6 market support two carriers, one carrier, or ten carriers,
7 that's all part of this investment decision, this market
8 entry decision that the current mechanism does pretty well.

9 COMMISSIONER ABERNATHY: Yes, Mr. Cosson.

10 MR. COSSON: If I can respond, then, to
11 Commissioner Abernathy's question also. For the rural
12 carriers that RICA represents, besides the traditional
13 business case analysis which everybody has to go through --
14 because you at least have to sit down and convince yourself
15 that your revenues are going to somehow equal what you're
16 cost of providing the business are and that's revenue from
17 all sources including universal service support -- there's
18 an additional historical factor here that is perhaps unique
19 to the rural CLECs.

20 When AT&T first began, and then rural companies
21 were built out, the small towns were generally neglected.
22 Generally, the smaller small towns were served by the rural
23 companies.

24 In a lot of cases, the historical development
25 meant that the rural ILECs were often in the hole in the

1 doughnut situation. They surrounded a Bell served town with
2 quite a bit more square miles, and quite a bit fewer
3 subscribers.

4 As the Bell companies began neglected those
5 areas, as they pulled out all their local customers so
6 there's nobody you can call, nobody you know, the president
7 lives in Denver and you're in the middle of Iowa someplace,
8 the customers got very dissatisfied.

9 And they saw the excellent service that the rural
10 ILECs were providing and they went to them and said, can't
11 you provide you service here, and the answer was, no, we
12 can't because the law doesn't allow us to serve that area
13 and this is ours. The '96 Act changed that.

14 The subscribers in those large company areas are
15 primarily Bell and GTE areas. Then came the incumbents and
16 said, now you can provide service. We want your service,
17 come in and bring it in.

18 So there under tremendous pressure from their
19 friends and neighbors to improve their service and they have
20 done so wherever they could find a way to do that. I think
21 the difference then -- that's one difference in their
22 calculation.

23 The other thing that underlies all this and
24 perhaps difference with Mr. Wood is, when a wire line CLEC
25 comes in and competes, and a customer signs up, that is

1 replacement. That is capture in the terms of the NTCA
2 position. The customer gives up the Bell service, it takes
3 the CLEC customer.

4 With wireless service, it's often not
5 replacement, but it's the second service. Why? Because
6 wireless offers something that the wire line doesn't. If
7 offers mobility and we also know that, you know, under the
8 FCC's build-out rules, those rules can be built by
9 configuring your network so you cover most of the major
10 roads.

11 A lot of areas don't receive coverage to the
12 extent that universal service funds provide revenues that
13 allow a wireless carrier to offer mobility in areas would
14 they otherwise couldn't. That is perhaps a proper use of
15 the funds.

16 And it's our point of suggestion is know that
17 the -- one, it should be a conscious decision, perhaps that,
18 you know, wanting advance services and so on, we also --
19 mobility is an objective that we should go for. We should
20 figure out what that cost and develop an appropriate support
21 system to deal with that.

22 But, doing that should not prevent the rural
23 ILECs who are really replacing the inadequate service of
24 large companies from obtaining the support that they would
25 if they had been a rural company.

1 In these situations, if the large company had
2 simply sold that exchange to the neighboring ILEC, at least
3 they would have then been able to have ILEC access revenues.
4 Be integrated into the NECA process and so on.

5 As a CLEC they're at a great disadvantage when --
6 for serving the same area with the same cost, between
7 whether you buy or you buy it, yet overbuilding it is a
8 lower cost to society.

9 Because when you buy it, what you end up doing
10 is, you could put no more than net book adverses as your
11 cost, and that book is a negative number in most cases when
12 you have to pay market price to the incumbent and then you
13 have to rebuild the network, so it's a whole lot cheaper if
14 you just rebuilt the network.

15 COMMISSIONER ABERNATHY: So it sounds like the
16 incentives on entering some markets can really depend upon
17 whether or not it is a rural carrier that is, in fact,
18 serving that particular market versus one of the larger non-
19 rural carriers serving that market.

20 MR. COSSON: Exactly, yes.

21 COMMISSIONER ABERNATHY: And then the USF
22 support, of course, will be significantly different. Okay.

23 MS. PIDGEON: I just want -- could I respond --

24 COMMISSIONER ABERNATHY: Go ahead.

25 MS. PIDGEON: Because it's difficult to predict

1 what markets bear the characteristics that will support
2 competition or what does go into a decision to enter a
3 market, I think that's precisely the reason why that per-
4 line support should remain equal among any carrier that
5 enters the market as a CETC, so as not to raise an
6 artificial barrier to entry, if the support is available
7 either at differentiating levels or only to one carrier and
8 not another.

9 COMMISSIONER ABERNATHY: But if the support is
10 based on sort of a threshold, in other words, if your costs
11 go beyond a certain threshold, you're entitled to support, I
12 don't quite see why someone with lower costs would
13 necessarily need the same support as an entity with higher
14 costs.

15 Again, at the end of the day, the revenue stream
16 should be approximately comparable if we're looking at the
17 costs for a particular customer.

18 MS. PIDGEON: The way I looked at it is to
19 compare two markets: one with subsidy and one without. You
20 know, in a market without a subsidy, a carrier comes in and
21 looks at what the other carrier's costs is and what prices
22 it may be able to set in order to serve customers and
23 compete.

24 If you move to a market where there is a subsidy,
25 then in order for -- with that -- in a market without the

1 subsidy, the competitive carrier can compete for that amount
2 in terms of pricing.

3 If there's a subsidy in the market that
4 competitive carrier comes in, then it would necessarily have
5 to be -- let's say the subsidy's \$10 -- as an initial matter
6 it would have to be \$10 more efficient before it could even
7 consider entering the market and competing on price.

8 COMMISSIONER ABERNATHY: Not if you're still
9 getting a subsidy. What you're really saying is that there
10 may not be any incentives for the incumbent to be efficient
11 and that may very well be true.

12 But at the end of the day, as long as your costs,
13 whatever your costs are, if they reach a certain threshold,
14 then you're entitled to support above that. You're still
15 going to be at the same level as the other entity.

16 Now that may still not be, from a public policy
17 perspective, necessarily encouraging certain kinds of
18 behavior. But it would seem to me that nevertheless you
19 would still be placed on the same competitive footing, it's
20 just that it would be based on different cost for the
21 different parties.

22 MS. PIDGEON: But in the absence of the
23 competitive entry in the first place, there wouldn't be the
24 appropriate incentive I think for both carriers to reduce
25 their costs, and I think that's, with competition in the

1 market, that that's really the direction it should go.

2 And you -- that competitive incentive, if
3 somehow can be maxed, if only one carrier -- if each carrier
4 is getting support based on its own respective costs.

5 MR. JOHANSSON: I'm going to comment on that. We
6 face competition every day from people who get USF and
7 people who don't get USF, and we have a lot of competition.

8 In almost every market we're in, with the exception of the
9 very, very smallest market, we have some kind of effective
10 competition in that market.

11 The idea that we're running some kind of a
12 business that we don't have to be -- you know, run in a cost
13 effective manner is just a ludicrous kind of an idea. You
14 look at the income statements of most rural independent
15 telephone companies right now --

16 I was in a recent board meeting of an industry
17 association. I asked all the people in this room whose
18 bottom lines have gone up, and whose top lines have gone up
19 in the last two years, raise your hand. Not a hand went up.

20 The fact is, the only way we're going to continue to be
21 successful is to run more efficient businesses.

22 This whole idea that we somehow are not running
23 efficient businesses is just a ludicrous and ridiculous idea
24 that people are throwing up as a smokescreen to try to, you
25 know, get public money without any of the responsibility

1 that goes along with it.

2 COMMISSIONER THOMPSON: I want to use my
3 opportunity to ask a question to follow-up and make sure I
4 understand what the model that Mr. Wood was advocating we
5 use earlier, and that was paying -- using ILEC cost as a
6 benchmark and sending the right economic signals. Thinking
7 about how that might work going forward, how should we
8 adjust that.

9 I mean, if, as what many of the speakers here
10 today have suggested, that the competitive entry creates
11 incentives for the ILEC to become more efficient, too, what
12 mechanism, how often should we look at those costs, should
13 that be a ceiling that's adjusted and what if, in the end,
14 it's really another carrier, one who is not the original
15 incumbent's, costs who are the most efficient in that
16 market, why shouldn't we use that as the benchmark?

17 MR. WOOD: Well, that's one of those compound
18 questions, isn't it? Well, no, as an initial matter, yes,
19 you absolutely should adjust this going forward. You know,
20 if -- having mucked through how ever many hundred cost
21 studies now over the last few years, one thing that really
22 hits home in this industry is that costs change.

23 Because -- not only of implementation of
24 different technology, but vendor pricing, different
25 packaging, a lot of things drive costs permanently down, but

1 in different directions. You, of course, have an
2 administrative trade off whether you want it -- you know,
3 how often do you want to do this, but, certainly, the more
4 precise that number, the better signal to the marketplace.

5 You know, so this is perhaps an annual resetting,
6 this is a perhaps a bi-annual resetting. You know, you
7 don't do it every month, you don't do it every ten years.
8 There's a rational place in the middle that's
9 administratively feasible that still gets the right signal
10 to the market as often as possible.

11 If there becomes a point where you have an
12 entrant, a CETC, that has full network coverage, and now
13 we're beyond the tradition use of universal service into
14 that new era, then I think you definitely then do look at
15 the most efficient provider.

16 The most proficient -- efficient -- provider
17 capable of providing service throughout that area with its
18 facilities should become your new benchmark, because that's
19 what the market ought to see. That's what potential new
20 entrants ought to be seeing. That's the right signal.

21 COMMISSIONER THOMPSON: Okay. Thank you.

22 STATE CONSUMER ADVOCATE GREGG: Thank you. I got
23 two areas I want to inquire in. One is basing support on
24 each carrier's costs and the second is use of a model for
25 rural carriers.

1 In the first area, let me see if I got this
2 straight. Four of you all support using a carrier's own
3 costs to determine support. Mr. Johnsson, Mr. Steinberg,
4 Mr. Cosson and Mr. Bergmann. Is that correct? And then,
5 two of you all oppose it, Ms. Pidgeon and Mr. Wood. Well,
6 at least --

7 MR. WOOD: So far.

8 STATE CONSUMER ADVOCATE GREGG: -- right now.
9 And I'm also correct that Ms. Pidgeon is -- or represents --
10 a land line based competitor, and Mr. Cosson represents an
11 association of land line based competitors.

12 MR. WOOD: Correct.

13 STATE CONSUMER ADVOCATE GREGG: Have any of you
14 all who advocate using a carrier's own costs figured out how
15 much it is going to cost the universal service fund if we
16 adopt your position?

17 MR. STEINBERG: Let me make a brief statement on
18 that one. I believe it will cost the universal service fund
19 less because I believe that the competitive carriers that
20 are coming in are doing so because they claim to be
21 efficient.

22 They claim to be more efficient than the
23 incumbent carrier, therefore, their costs should be less
24 and, therefore, the amount of universal service funding that
25 they receive should be less and have a lower impact on the

1 fund.

2 MR. COSSON: I would agree with Mr. Steinberg and
3 his qualification. Obviously, we don't know for sure. We
4 haven't done a competitive study, I'm not even sure how we
5 would do those.

6 But the answer is, it isn't necessarily more
7 because then you do away with somebody saying, gee, look
8 here, there's \$30 a month in support, my costs are only \$25
9 a month. I better get in here, I can give away service.

10 And so, you know, to the extent you control that,
11 and that goes to the point of what is efficiency, though.
12 Efficiency isn't simply I have lower costs to provide a
13 three kilohertz signal to the subscriber, because there's a
14 whole lot of questions that go beyond, you know, what is a
15 three kilohertz signal.

16 It is how often does it get dropped? How many of
17 the subscribers can pick up the phone at once and make a
18 call? What is the blocking rate? What is the reliability?
19 What is the ultimate band width?

20 Going back to Commissioner Rowe's question about
21 barriers. Now is this platform suitable for meeting the
22 statutory objective of getting to advance services? All of
23 those things go into, when you're make an efficiency
24 comparison, you have to be comparing apples to apples.

25 MR. JOHNSON: I would like to comment that I

1 don't know the answer to the question. We have seen some
2 studies that say that if all eligible carriers right now
3 were to apply for ETC status and be granted that status,
4 there'd be about a 2 million dollar hit or greater to the
5 fund.

6 STATE CONSUMER ADVOCATE GREGG: That's if we
7 support all the lines --

8 MR. JOHNSON: Correct.

9 STATE CONSUMER ADVOCATE GREGG: -- that the
10 current ETCs would actually service ultimately.

11 MR. JOHNSON: Correct. I would like to make one
12 other comment, too, and that is, we're talking about high-
13 cost support here, and I want to remind everyone that the
14 current per-line amount is not just high cost. When you
15 rebalance rates, you dump the money in the universal
16 service, and those are not high-cost items. They're traffic
17 sensitive and other kinds of, you know, items that got
18 dumped in there. So the number's kind of artificially high
19 because there's more than high-cost support going to the
20 CETCs.

21 STATE CONSUMER ADVOCATE GREGG: Ms. Pidgeon?

22 MS. PIDGEON: I don't necessarily agree with the
23 argument that if you calculate support based on each
24 carrier's costs, own individual costs, that the fund will
25 necessarily be lower.

1 First on a -- today we don't currently support
2 the entire network of CETCs, we only support them on a per-
3 line basis. And so if you put the entire cost of a CETC
4 network, I would think that that would necessarily increase
5 the fund amount.

6 Second, if you calculated it on a per-line basis,
7 the CETC entering the market is necessarily going to have
8 fewer lines than the incumbent serving the market. So the
9 per-line cost of the CETC, calculated based on its own cost,
10 is likely to be higher as well.

11 And third, I think, frankly, it's the wrong
12 incentive; that if there is differential support based on
13 different cost advantages, then the incentive will be either
14 for the ILEC or the CETC to establish a cost level that is
15 as close as possible to the higher cost provider so that the
16 support can be maximized, and I think that's the wrong
17 incentive.

18 STATE CONSUMER ADVOCATE GREGG: Okay. Mr.
19 Bergmann --

20 COMMISSIONER ROWE: As a follow-up, can we
21 support the entire network for incumbents?

22 MS. PIDGEON: We do today, yes.

23 MR. STEINBERG: Just to be clear. The universal
24 service support is -- falls into different categories.
25 High-cost loop support, supports loops. It does not support

1 other elements of the network such as switching.

2 There is switching support, so there are
3 different components that are defined and supported
4 individually. And so when we talk about high-cost loop
5 support, we are talking about just the loop portion of the
6 network.

7 MR. COSSON: One -- just clarification. For the
8 rural CLECs, they do have the majority of the lines in the
9 operating areas where they operate typically. And then to
10 Commissioner Abernathy's question, they don't go into those
11 areas unless they expect to get the great majority of the
12 other lines.

13 STATE CONSUMER ADVOCATE GREGG: Mr. Bergmann,
14 under your proposal to base support on each carrier's cost
15 capped at the ILEC's per-line cost, would not the over all
16 cost to the fund be the same or less than we are currently
17 paying?

18 MR. BERGMANN: That's very much true, especially
19 if, as we go with the second panel, support is limited to a
20 primary line.

21 STATE CONSUMER ADVOCATE GREGG: The second -- I'm
22 sorry, go ahead.

23 MR. BERGMANN: You know, obviously this is
24 something nobody knows for sure. And -- but the presumption
25 has to be that the cost would be lower if you used CETC's

1 cost. If their costs are higher -- as we said, you
2 shouldn't be supporting that because that's subsidizing
3 competition for competition's sake.

4 STATE CONSUMER ADVOCATE GREGG: My second area,
5 concerning the model, as I understand it, three of you all
6 oppose use of the model and three of you support use of some
7 sort of model for some portion of rural carriers.

8 Basically, Mr. Johnsson, Mr. Steinberg and Ms.
9 Pidgeon, I take it, would be opposed to use of the model,
10 but I needed to clarify Ms. Pidgeon's position, because I
11 haven't heard precisely.

12 And Mr. Cosson, Mr. Wood, and Mr. Bergmann would
13 favor use of the model. Is that correct, except for Ms.
14 Pidgeon -- go ahead.

15 MS. PIDGEON: I wouldn't oppose the use of the
16 model so long as the model is used to establish the same
17 amount of support per line for both carriers.

18 STATE CONSUMER ADVOCATE GREGG: In other words,
19 once the model runs, it establishes an objective standard
20 that both the incumbent and any competitors would be
21 eligible to receive.

22 MS. PIDGEON: Correct.

23 STATE CONSUMER ADVOCATE GREGG: Do you all
24 recognize that currently we are operating under the
25 Commission's RTF order, which continues the embedded system

1 for all rural carriers through 2005? And would your
2 proposals simply be the start of a transition period that
3 would take effect after the RFT order expires?

4 MR. WOOD: Well, no, I have to disagree with the
5 premise of your question. That order actually modified the
6 embedded cost recovery.

7 STATE CONSUMER ADVOCATE GREGG: And, in fact,
8 that's what it's called.

9 MR. WOOD: Right. In fact, it is called
10 modified. And when you look historically over time, it's
11 not the quarter after that order, it's the quarter after
12 that because of the projected basis on the line counts where
13 the big jump occurs.

14 But for everybody who standing up and, you known,
15 talking about impact on the size of the fund, all of the
16 payments going to CETCs are nowhere near approaching the
17 incremental change from going to embedded cost to modified
18 embedded cost.

19 So, you know, it's got to be somewhat
20 disingenuous to stand up here and say it's all about the
21 size and viability of the fund, when your company that got
22 an incremental increase that far out weighs the total amount
23 going to competitors. I mean, this -- competitors are not
24 going to bankrupt this fund. That's not where the money
25 goes.

1 I would certainly suggest to you also that that
2 order is very clear that the transition period started at
3 the date that order was implemented. There's very clear
4 language to the incumbents that says, we're going to
5 economic costs. This five years is your transition period,
6 use it wisely.

7 I certainly hope that they have been doing that.
8 I think it would a huge mistake to get to the end of the
9 five years and say, well, now we're going to start a
10 transition period all over again.

11 You know, these companies have been on notice
12 since '97 when the conclusion was reached that all companies
13 ought to be on economic cost. They've been on clear notice
14 for the last two and a half years that that is exactly where
15 they're headed.

16 The transition is already well underway. I think
17 we need to use the remaining two years of the transition to
18 fine tune the cost model so that we can calculate an
19 economic cost and go forward at that time.

20 MR. COSSON: Okay. If I -- to go back to your
21 original question. The -- RICA's position is not in support
22 of a model. What we have suggested is that forward-looking
23 economic cost for the competitive carriers could be
24 appropriate, but what is cost and how do you decide what it
25 is in a particular area are really two different questions.

1 A model is one way of doing it. Just like for
2 the ILECs we have average schedules, which are, in effect, a
3 model, and have specific rules for coming up with a
4 statistically valid way of saying, this is what this
5 company's particular cost is.

6 We have not supported a model because, you know,
7 it does not validly predict what any particular area is.
8 That's not to say that one could not be built, but we
9 haven't seen one since.

10 And I guess that the -- to quibble a little bit
11 with Mr. Wood -- the problem was, not that the model didn't
12 predict embedded cost, the model didn't predict forward-
13 looking cost.

14 I think you may recall during the RFT proceeding,
15 RUS compared the model results with several recent loan
16 applications -- and an RUS loan application is, in fact,
17 what we mean by a forward-looking cost study. It would be
18 equivalent of that.

19 So sitting down and saying, for this particular
20 area, using the most cost efficient technology, what would
21 it cost to construct and operate the system? Now, you know,
22 if somebody can develop a model that's useful following the
23 way that ILECs use average schedules, you have -- if you're
24 an average schedule company and the average schedules don't
25 adequately predict your costs, you have the option of doing

1 an individual cost study.

2 It costs you more, and, of course, to the extent
3 that the cost of doing the cost study is more than the
4 difference, you stay on the average schedule. If you had a
5 system where there was an option to use the model or produce
6 your own cost study, we wouldn't object to the model in that
7 case.

8 But, you know, the time to be very clear that the
9 Commission's process, as I understood it, focused on
10 validating the input, but -- not purporting to be a
11 statistician -- I don't think a model is valid unless you
12 validate the output, and that means let's take the output,
13 let's look at a statistically valid number of places where
14 it predicts it and compare those with the forward-looking
15 costs of what is to serve those areas.

16 When -- if that works, then you have a valid
17 model, otherwise, you don't.

18 MR. STEINBERG: If I might respond briefly, Mr.
19 Gregg?

20 COMMISSIONER ABERNATHY: Very briefly.

21 MR. STEINBERG: I will try to be very brief. I
22 just would caution against using a forward-looking model
23 that, in fact, will lead to harm to consumers. We do have
24 direct experience with forward-looking models.

25 We know, you know, the Fairbanks area for

1 example, that our actual costs are in the neighborhood of
2 \$30 per loop -- per month -- and the model which -- we --
3 has been used to predict our UNE prices comes out at \$19 per
4 month.

5 We used a similar kind of forward-looking price
6 up for universal service funding. Again, I think you would
7 end up reducing the support to a level that could harm
8 consumers.

9 COMMISSIONER ADELSTEIN: Do we have time for one
10 last?

11 COMMISSIONER ABERNATHY: Yes, absolutely.

12 COMMISSIONER ADELSTEIN: I know we're almost out
13 of time, but I had something that was sort of a transition
14 to our next panel on measures to control fund growth. And
15 it goes back to a point that Commissioner Abernathy made
16 earlier on about, if we base costs on the incumbent costs,
17 then the CETC comes in, which will take away some customers
18 from the incumbent that's raising the incumbent's costs, so
19 the universal service fund ends up paying more, the
20 consumers pay more, and consumers get no additional benefits
21 as a result. It's sort of a perverse effect.

22 Now some of the panelists indicated that one
23 response to that would be to freeze per-line support on the
24 CETCs entry. But maybe my question -- and, Mr. Johnsson, if
25 you could start and others could respond -- is, if we were

1 to do that, what effect would that have on investment in
2 rural areas? Which is another key goal that we talked about
3 here we want to accomplish.

4 MR. JOHNSON: Well, granted -- given that's it's
5 10:30 -- I would say it's likely to restrict investment
6 rural areas.

7 MR. STEINBERG: Just very briefly, we've already
8 seen that result.

9 MR. COSSON: And for the rural CLECs, if there is
10 no USF support, freezing it doesn't get them any.

11 MR. WOOD: I'm here for companies that are
12 looking to invest, not to stop investing. So, I don't think
13 your -- you know, if you look at this totally in terms of
14 how do we promote investment by the ILEC, I think it's a
15 very different question then how do we promote investment.

16 I think we've got to look at this broader
17 question. And, the way we frame all of these questions, I
18 think we need to back up one step and look at this a little
19 bit broader.

20 MR. JOHNSON: We need to also tell it how we
21 wrote investments in the public interest.

22 MS. PIDGEON: And we can promote investment
23 through competition, also ensuring that there's sufficient
24 support not necessarily a specific provider.

25 MR. BERGMANN: I would agree that once there is

1 competitive entry, the per-line support should be frozen.
2 From then on the competitive forces will require demand,
3 force investment.

4 COMMISSIONER ABERNATHY: Okay. Great. Thank you
5 to all of you for coming here, all the panelist. This was a
6 great dialogue and debate. I really appreciated lots of
7 good information.

8 We will take a 17-minute break -- I mean a -- I
9 can't do math -- a 13 -- 12-minute break and come back at a
10 quarter till. That's why I'm a lawyer. And we'll come back
11 at a quarter til and move on to the next panel. Thank you.

12 (Whereupon, a short recess was taken.)

13 PANEL TWO

14 SCOPE OF SUPPORT/MEASURES TO CONTROL FUND GROWTH

15 COMMISSIONER ABERNATHY: We'll head on to the
16 second panel, and it's the Scope of Support/Measures to
17 Control Fund Growth. Once again, we'll start with each of
18 the panelists.

19 You have three minutes to make your
20 presentations, and I'd really like you to hold to that time,
21 because, as you saw before, we have a lot of questions and
22 that's the best part of the dialogue, so I'd really like you
23 to try and stick with it.

24 And we'll start with Susanne Guyer from Verizon
25 Communications.

1 Thanks, Susanne, for coming.

2 MS. GUYER: Thank you. This -- is this on?
3 Thank you for inviting me to speak with you today and I
4 comment the joint board's leadership on this important
5 issue.

6 I'd like to begin my remarks by reiterating the
7 fundamental reasons for universal service policies. To
8 provide all American's access to quality telecommunications
9 service at reasonably comparable and affordable rates. The
10 universal service provisions of the Act are among the most
11 fundamental tenants of the Act.

12 However, we are at a crossroads with respect to
13 universal service fund. As we examine the facts, we see
14 that the size of the fund grows with each new eligible
15 telecommunications carrier or ETC.

16 Under the rule, as the fund size grows, the
17 assessment on individual consumers increases. And
18 subsidizing multiple carriers in the areas where it is not
19 economically efficient for even one to operate, dilutes the
20 support from its intended purposes. Ultimately, as a
21 result, affordable service is threatened.

22 So how do we minimize the impact on consumers,
23 while ensuring the basic tenant of affordable access to
24 telecommunication services for all? Verizon had adjusted
25 several policy modifications that we believe will ease

1 consumer impacts while ensuring reasonably comparable and
2 affordable rates to all of rural America.

3 Now, I've provided you all with written
4 testimony, so what I'm going to do today is, in here, is to
5 just do an overview of our recommendations.

6 Verizon -- number one -- Verizon endorses the
7 proposal recommended by the Rural Task Force. That is,
8 freeze high-cost loop support for a rural telephone company
9 upon Commission approval of a competitive ETC.

10 Now the Commission declined to adopt the freeze
11 three years ago because it found that the potential problem
12 of excessive growth in the high-cost fund due to competitive
13 ETC lines to be speculative. However, the recent growth and
14 support being given to or sought by competitive ETCs shows
15 that the concerns raised by the joint board are now a
16 reality.

17 Proposal two. Verizon recommends that no more
18 than one ETC should be designated to receive universal
19 service funds for a specific customer. Rural incumbent
20 local exchange carriers would continue to be supported until
21 another service provider wins the customer.

22 We suggest for competitive ETC services, customer
23 certification that the supported lines are the consumer's
24 sole connection to the network would be required. For
25 example, the life line certification process could be used

1 as a guide for that kind of certification.

2 Proposal three. Competitive ETC wins the
3 consumer and supplies the consumer's only connection to the
4 network, the support goes to the ETC for all lines provided.

5 Verizon does not believe that supporting all lines would
6 cause the fund size to grow at an unsustainable rate. And
7 the administrative issues associated with support of only a
8 primary line are problematic and potentially costly.

9 In conclusion, the modifications I have discussed
10 today are measured steps that can be adopted and implemented
11 now to minimize consumer impact and help to check the growth
12 of the high-cost fund. Adoption of these measures would
13 help to ensure the continued viability of universal service,
14 allowed competitive ETCs to compete for customers with clear
15 rules of the road, or in this case, rules of the back roads,
16 when they choose to serve rural America, and these changes
17 would work within the framework of the current rules.

18 Thank you for inviting me to speak to you today.

19 COMMISSIONER ABERNATHY: Thank you very much.
20 Let's move on. Joel Lubin, from AT&T Corp., thanks for
21 coming to Denver, and we look forward to hearing your
22 remarks.

23 MR. LUBIN: Thank you. Members of the Federal-
24 State Joint Board on Universal Service thank you for
25 inviting me here to testify on behalf of AT&T on the

1 critical issues associated with universal service associated
2 with controlling the size of the fund and the growth.

3 In 1996 the joint board recommended the universal
4 service support be limited to a single connection to a home
5 or a business. That was the right decision then, and it is
6 the right decision today.

7 In '96 there were approximately 45 million
8 wireless subscribers. Today there are over 141 million
9 subscribers. In 1996 there were 101 million households with
10 about 94 percent having telephone service. Today there are
11 over 109 million households, over 95 percent of them have
12 telephone service.

13 Conclusion; the number of households with
14 telephone service is growing. Consumers are using wireless
15 to supplement, not replace wire line service. There are two
16 separate policy issues that need to be addressed.

17 Issue number one. Rules for governing when a
18 CLEC, whether it's wire or wireless, wins a customer from an
19 ILEC by competing head to head. Issue number two. Should
20 wireless supplementary service be supported by universal
21 service? Different question.

22 Let's go back to issue number one. Any CETC,
23 wire or wireless, should be treated no differently than the
24 incumbent LEC when competing with each other head to head.

25 Support for the CETC should be the support for

1 the incumbent that the incumbent would receive. This is the
2 cornerstone of portability of USF and creating competition.

3 Issue two. Should wireless supplementary service
4 be supported by USF? This is clearly a different question.

5 Some parties argue that wireless service is an essential
6 service. Others such find a fundamental change to the
7 definition of the universal service requires a separate
8 policy investigation focused on the question of whether or
9 not to support mobility.

10 What is clear is that the existing high-cost
11 support mechanism is an inappropriate mechanism for
12 supporting wireless deployment when it isn't competing head
13 to head. The existing support is based on wire line cost
14 not -- that are only split by jurisdiction today.

15 Any USF of mobility must be based on cost and
16 rates of providing mobile service that is in one
17 jurisdiction. You must look at the cost of wireless
18 compared to a package price. This requires a new high-cost
19 mechanism for which wireless providers are eligible. This
20 is when we are addressing issue number two. Should this
21 supplementary service be supported, not issue number one.

22 One final point is that it is important to
23 control the size of the fund. The Rural Task Force
24 appropriately recommended ending the USF support as an ILEC
25 guarantee within the high-cost loop mechanism.

1 Once a CETC is certified, under the RTF
2 recommendation, the high-cost loop per-line support would
3 have been capped at the time of certification. Capping the
4 support per-line, once a CETC is certified, is another
5 critical step to control the growth of the size of the fund.

6 I look forward to answering your questions.
7 Thank you.

8 COMMISSIONER ABERNATHY: Thank you very much.
9 Now we'll turn on to Brian Staihr, who's with Sprint
10 Corporation. And, again, thanks for joining us today.

11 MR. STAIHR: Thank you for letting me be here.
12 My name is Brian Staihr and I'm an economist and I work for
13 Sprint.

14 And when I say work for Sprint, I work for the
15 local company, I work for PCS, the wireless company, I work
16 for the long distance company, and I work for our wire line
17 CLEC operations. So I truly do understand just about every
18 point of view that is being expressed in this room today.

19 What we're looking at here is one way of
20 controlling the size of fund growth. We're just looking at
21 one way right now according to this agenda, limiting support
22 to primary lines. The first question I have to put forth
23 is, why are we focusing just on this one? Why aren't we
24 having an entire workshop on the possibility of capping a
25 study area total?

1 There are lots of ways to control fund growth.
2 Lots of them. So what we need to do is look at this one
3 that's laid out before us, limiting support to primary
4 lines, and ask some questions. Is it the best way? Is it
5 the most efficient way? The most economic way? The least
6 harmful way? The easiest way to implement?

7 How do we decide if it's the right way? Three
8 things we have to consider. First, is it consistent with
9 some of these other goals we have? Competitive neutrality
10 and promoting competition, not just tolerating competition,
11 promoting competition. Sprint's comments are pretty clear
12 that it's not.

13 Number two. Is it administratively workable?
14 Absolutely no. I hope we can have a lot of discussion about
15 that because the administrative aspects of this would be a
16 nightmare.

17 The third. Is there some reason to believe that
18 this action, taking away support from non-primary lines, is
19 justifiable on its own? Is there some reason to think that
20 primary lines are the only ones that need support deserve
21 support.

22 My colleague here, Joel, talked about
23 substitutability and complementary nature of these services.
24 The economists love to agree to disagree. I think that --
25 I think we're going to talk about that secondary lines, non-

1 primary lines, have just as much need for support, are just
2 as deserving of support.

3 So it comes down to this, is limiting support for
4 primary lines justifiable on its own? No. Is it
5 administratively workable? No. Is it the most efficient
6 way to control the size of the fund? No. Do we need to
7 look seriously at other alternatives? Yes. That's where I
8 stop.

9 COMMISSIONER ABERNATHY: Let's move on to David
10 LaFuria, who's with the Alliance of Rural CMRS Carriers, and
11 we look forward to hearing your remarks.

12 MR. LaFURIA: Good morning, Commissioner. On
13 behalf of the Alliance of Rural CMRS Carriers, it's a
14 privilege to have the opportunity to appear before you.

15 Briefly, ARCC members are independent wireless
16 companies who are focused almost exclusively in rural
17 America. They face the same challenges, and their
18 circumstances are far more similar to rural wireless
19 carriers than they are different.

20 This hearing is appropriate because the
21 challenges are complex and the proposed solutions are
22 diverse. Above the complexity, however, stands clear and
23 simple direction from Congress, which has been amplified by
24 the Supreme Court and the Federal Courts of Appeals.

25 Congress, in our view, never intended to limit

1 rural consumers' access to one service provider, one
2 technology or one location. Indeed, I think, as Mr. Lubin
3 accurately points, back in 1996 roughly 94 or 95 percent of
4 America already had access.

5 Section 254(b)(3) of the Act fundamentally
6 changed the goals of the universal service from simply
7 providing access or a connection to the network, to
8 providing rural consumers with access to the same kinds of
9 telecommunications choices and its similar rates as those
10 that are available in urban areas.

11 Attempts to frame this proceeding as being about
12 controlling competitive entry and funding so as to sustain
13 the federal fund must be rejected. The appropriate question
14 must be, how do we effectuate the will of Congress to open
15 rural markets to competition and provide for sustainable
16 universal service fund?

17 Based on comments submitted in this proceeding,
18 we recommend the following four immediate steps to sustain
19 the fund and promote competitive entry.

20 First, as others have suggested, capping support
21 to a study area or another area that is appropriate when a
22 competitor enters. Even a soft cap, one that can be raised
23 due to inflation or other factors or adjustments are
24 essential to managing the growth of the fund.

25 Two, hand in glove with caps, is making support

1 fully portable. That is, when one carrier gets support,
2 another carrier loses. Portability of support is viewed by
3 some in the comments as an option. The Fifth Circuit's
4 ALENCO decision makes clear that it is mandated. There can
5 be no competitively neutral system of support without full
6 portability.

7 Third, begin in earnest, the process of moving
8 ILECs to economic costs. This was discussed significantly
9 in the prior panel, and I think it's important to understand
10 that economic costs are a fundamental basis for providing
11 support and judging cost that has been firmly and squarely
12 approved by the Supreme Court.

13 Fourth, require ILECs to more accurately target
14 support upon competitive entry. Less than 10 percent of
15 rural ILECs to date have disaggregated their support, and as
16 a result, some ARCC members and others, receive -- continue
17 to receive support in low-cost portions of a study area,
18 even when they shouldn't.

19 The more accurately targeting support to the
20 higher cost areas will go a long way to solving what has
21 been called the customer list problem. These four actions
22 that we suggest here will advance universal service, promote
23 competition and lawfully fulfill Congressional mandates.

24 Thank you for listening. I look forward to your
25 questions.

1 COMMISSIONER ABERNATHY: Thank you very much.

2 And now we'll hear from Ken Reif?

3 MR. REIF: Reif.

4 COMMISSIONER ABERNATHY: I knew I'd get it wrong.

5 Ken Reif, who's with NASUCA, and we look forward to hearing
6 NASUCA's perspective on this particular issue.

7 MR. REIF: Thank you, Madam Commissioner. My
8 name's Ken Reif. I'm the Director of the Colorado Office of
9 Consumer Counsel. It's nice to have Commissioner Rowe here.
10 We've had discussions on these phone issues over the years,
11 and he and I agree on many things on that.

12 In fact, I was going to pick up a point □ I'm
13 going to □ I'm speaking on behalf of NASUCA today, but I
14 thought I would help and try and give some Colorado examples
15 of what Colorado consumers, and I think by implication,
16 western consumers are dealing with.

17 Not too long ago, the biggest complaint that I
18 got from telephone consumers was, hey, I can't get a phone,
19 it's taken me two months to get a phone. Or, I can't get my
20 phone fixed, it's taken me three weeks to get my phone
21 fixed. Again, Commission Rowe remembers those.

22 I don't hear that anymore. That's been largely
23 taken care of. What I hear instead is, what are all those
24 blasted surcharges on my bill and why do they all go up? I
25 hear that every single day.

1 And if the growth projections for the federal
2 universal service fund are anywhere close to true, I'm here
3 to tell you that it's not sustainable. Politically and for
4 consumers, and it will collapse under its own weight. So I
5 think it's very timely that the Commission Joint Board and
6 the Commission is looking at this.

7 I can give you a Colorado example. In the first
8 several years of the state high-cost fund, when it was
9 implemented as a result of the Act, the fund started to grow
10 from somewhere around 35 million dollars to above 60 million
11 dollars. And there was consumer outrage.

12 And the legislature stepped in and they put a
13 hard cap on it. They said there will be no state high-cost
14 support greater than 60 million dollars. That -- a sunset
15 of that, and that has gone away -- but it has served as an
16 informal cap for the state high-cost fund ever since. And,
17 at the moment, the state high-cost fund is less than 60
18 million dollars, and I expect it will remain there for some
19 period of time.

20 So, for the purpose of this panel, NASUCA very
21 much supports restriction of a high-cost support for one
22 line per household or business. And I look forward to your
23 questions.

24 COMMISSIONER ABERNATHY: Thanks again to all the
25 panelists. I think what we'll do this time is start at the

1 other end of the table so that we'll give equal time to all
2 of the joint board commissioners. So, Billy Jack Gregg, you
3 want to start?

4 STATE CONSUMER ADVOCATE GREGG: Thank you. Good
5 morning panel members. I have two areas of questions to
6 start off with. The first is on the meaning of the Act, and
7 I dread to go there. And the second is on the
8 administrative issues related to supporting single or
9 multiple lines.

10 On the first area, I'd like to get the reaction
11 from the panelist as to whether the Act promised all
12 Americans access to a basic set of supported services, or
13 did it promise access to an unlimited number of subsidized
14 carriers?

15 MR. REIF: My own view, Billy Jack, is that
16 universal service is designed to let folks in rural areas
17 and high-cost areas have reasonable access to the switch
18 network. And I would limit it in my own mind to that. I
19 know there's debate about it, but I interpret the Act in
20 that way.

21 MR. LaFURIA: Mr. Gregg, as I said in my opening,
22 I believe that if all the '96 Act stood for was to provide a
23 connection to the network, there was no need for Congress to
24 intertwine competition with universal service and to make a
25 very specific command in 254(b)(3) that consumers in rural

1 areas have the same kinds of choices.

2 And I believe those kinds of choices can be
3 vividly illustrated by simply coming to any major city, like
4 Denver. You will discover that there are at least one, or
5 maybe as many as three, wireless networks, which provide you
6 today the opportunity to use your phone in a manner that
7 gives you, whether you want to call it primary or even
8 exclusive, service.

9 If you go to rural America, and you are on the
10 highways or you're in the main towns, there may be one or
11 two or even three carriers possibly that could do that. As
12 soon as you leave those main areas and move to what is
13 really rural America where there are high costs, you do not
14 have those same choices today. And that is what the Act
15 should be promoting.

16 STATE CONSUMER ADVOCATE GREGG: Okay. Just to
17 jump in. To be clear, then, it's your position, Mr.
18 LaFuria, that the Act mandates that every American, even in
19 the most remote area, have the same access to say three
20 carriers, even if we have to subsidize each of those
21 carriers, the same access as they have in Denver.

22 MR. LaFURIA: What I'm suggesting is that people
23 who are economist -- such as Mr. Wood -- who are a lot
24 smarter than I -- have managed to figure out that the per-
25 line support methodology that we have is a very powerful

1 controller in the marketplace and the marketplace will
2 select the right number of carriers in any particular
3 market. If only one competitor can get into that market, a
4 second or a third competitor, having to take on the
5 responsibilities of an ETC, will not be able to enter under
6 the per-line methodology.

7 If you support all networks, for example, paying
8 all carriers on their costs, then certainly you will have
9 multiple carriers and we would not support that.

10 MR. STAIHR: I'm pretty sure that the word that's
11 in the Act is consumers. The consumers will have access,
12 not households. If you've got two consumers who happen to
13 reside in the same household, each happens to have his or
14 her own line, what you would end up with a single support
15 per location or household is one that has affordable service
16 and one that doesn't because one isn't supported.

17 So I think it comes down to consumers and not
18 locations and not households.

19 STATE CONSUMER ADVOCATE GREGG: So all the kids
20 my house have the right to a subsidized connection?

21 MR. STAIHR: I don't know if all your kids are
22 consumers. I don't know who the controls the purse strings.

23 COMMISSIONER ABERNATHY: Trust me. My daughter
24 is a consumer.

25 STATE CONSUMER ADVOCATE GREGG: And they're all

1 subsidized, aren't they?

2 MR. STAIHR: To the extent that -- and you asked
3 about the administrative difficulties --

4 STATE CONSUMER ADVOCATE GREGG: Well, I'm going
5 to ask about that in a minute.

6 MR. STAIHR: Okay.

7 COMMISSIONER ABERNATHY: Commissioner Rowe, did
8 you have a follow-up to that?

9 COMMISSIONER ROWE: Yes, a follow-up for Mr.
10 LaFuria. Were you suggesting that either mobility or a
11 number of carriers in some way met the statutory
12 requirements for covered service or that the joint board
13 ought to add those to the list of covered services? Were
14 you pushing your argument quite that far?

15 MR. LaFURIA: The question is, should the joint
16 board add mobility to the list of covered services?

17 COMMISSIONER ROWE: Was that the end point of
18 your argument?

19 MR. LaFURIA: No. I don't know that it is
20 necessary. I believe that any carrier that can deliver the
21 supported services, however you define them, should be
22 eligible to attempt to get support. All markets should be
23 open to competition so that no matter what technology you
24 use, and you ask yourself, am I willing to make the
25 commitments that are required?

1 And we can all -- we've all talked about those
2 commitments, and the third panel, I think, is tied up a lot
3 with what those commitments should be, irrespective of the
4 technology, so I don't think mobility is required.

5 COMMISSIONER ROWE: But the starting point of
6 your argument was that customers from urban areas have
7 access to multiple carriers, including mobile carriers --

8 MR. LaFURIA: Yes.

9 COMMISSIONER ROWE: -- and that then leads you
10 into the statutory analysis.

11 MR. LaFURIA: Yes. If a -- if in a rural area
12 today, you conclude that rural consumers do not have the
13 same kinds of choices of telecommunications services --
14 whether they be mobile or fixed or wire line or whatever --
15 if you conclude that those choices are not available, then
16 policies that are competitively neutral have to be developed
17 to provide those choices, not merely a connection to the
18 network -- one single connection.

19 COMMISSIONER ABERNATHY: What do you do about the
20 fact that, if you're in a rural area and there is a wireless
21 provider in that rural area and a wire line carrier, and the
22 wireless provider built out with no subsidy support and
23 they're offering a \$35 a month package of minutes, and the
24 wire line price is \$15 a month -- so are you then saying
25 that, as public policy, we should provide support to the

1 wireless provider, even though, of course, they're still
2 making money and apparently running a solid business on
3 their \$35 a month charge -- that we should provide a support
4 mechanism so the consumers in that town also get the
5 wireless service at \$15 a month?

6 MR. LaFURIA: That's a very good question, and
7 we've talked about that a lot in state commission
8 proceedings. In almost all cases, the scenario that you've
9 described does not happen and should not happen, and I'll
10 explain why.

11 In rural America, in the towns where there is
12 sufficient density today to build good wireless networks
13 that provide consumers with a choice to use that as their
14 primary phone, those areas are being built without support.

15 The quality of network is there, and there is no
16 need for support to the wireless carrier. There's probably
17 no need for support to the wire line carrier in that area,
18 but that's a separate question.

19 With respect to wireless, if the wire line
20 company properly disaggregates its support and moves support
21 to the high-cost areas, then in a town of 15 or 20,000
22 people in the middle of a rural area, there should be no
23 support available.

24 And I have a number of clients -- there's -- in
25 fact, there's one in West Virginia where they've got -- I

1 think it's Bluefield -- is an area where there's three or
2 four wireless carriers, and the great majority of the new
3 CETCs' lines are in that area.

4 And because the ILECs have disaggregated, there's
5 no support available. So the vast majority of lines -- I
6 believe it's the vast majority of lines -- of this
7 particular entity get no support. And that's exactly as it
8 should be.

9 The support should be out in the more rural
10 areas, so as to force that competitive carrier, if they're
11 willing to make the commitment to service the whole area, to
12 go out and invest in those areas and bring those folks who
13 really need it the kinds of choices that are available, even
14 in a place, perhaps, like Bluefield, or in Washington D.C.

15 STATE CONSUMER ADVOCATE GREGG: I believe it's 78
16 percent receive no support.

17 MR. LaFURIA: Thank you, sir. I knew you'd be on
18 top of that.

19 MR. LUBIN: With regard to your question. It
20 sounds like a simple question, but for me a very complicated
21 question. From my point of view, there's several pieces of
22 it. The first piece is, I believe what the Act is talking
23 about is to create the opportunity for comparable service
24 for a customer.

25 And the conflict is, as actually said earlier by

1 Commissioner Dunleavy, is when you decided to create
2 competition possibly in the urban areas, or as David just
3 highlighted, in the city of rural area, you create
4 competition in that area which puts pressure that the rural
5 part of a company may not be able to maintain its rates at
6 the current level, or the universal service that it's
7 getting.

8 And so the dilemma is, because you've made a
9 decision that you're going to create competition, you have
10 to make sure that the rates in that rural part does not go
11 up. And so that is why, from my point of view, they create
12 more universal service dollars. Said it differently
13 disaggregating the universal service dollars into that
14 geographic area.

15 However -- again, to your question, is for the
16 customer to get comparable service. However, the state PUCs
17 need to determine whether they want to see competition and
18 grant ETC status in a particular study area or in a
19 particular area. That a separable question.

20 It is not, from my point of view, on the surface
21 to simply say, if I have three carriers competing in the
22 urban area, I need to have three carriers in the rural area.
23 That's not why I think it is.

24 But, again, once you create a universal service
25 fund, a cornerstone is to have it done in a competitively

1 neutral way. So, for me, it's, you create the universal
2 service fund, it has to be done in a competitively neutral
3 way, but there's a third question, do you grant ETC status
4 in all parts of the country? That's a separable question.

5 STATE CONSUMER ADVOCATE GREGG: Susanne.

6 MS. GUYER: First of all, I would say in the last
7 seven years there have been lots of interpretations to every
8 phrase in the Telecom Act. But I would say that what the
9 Act is intending to do is guarantee that all Americans have
10 access to a telecommunications service. And that does not
11 mean guaranteed access or support for multiple carries.

12 Now you all have policies in place to promote
13 competition, and what we are attempting to do here is
14 balance, ensuring that every American has access to
15 telecommunications service and keeping a safety pin for
16 that, but at the same, not creating any barriers to new
17 competitors coming in that would have an opportunity to
18 capture the customer.

19 And our proposal would allow a carrier -- a
20 competitive carrier -- coming in to receive support only if
21 that carrier captures the customer.

22 STATE CONSUMER ADVOCATE GREGG: This brings me to
23 the administrative issue. You had mentioned that -- under
24 Verizon's proposal -- that the CETC would certify to USAC
25 that it had captured a particular line in order to receive

1 support. Correct? That's not necessarily the same as
2 limiting support to only single lines.

3 MS. GUYER: Right. We have struggled with this.
4 And we had looked at what are the real growth drivers and
5 we found that it was the supporting multiple providers, not
6 necessarily multiple lines.

7 And when we looked at the percentages of
8 additional lines in a household -- and also we looked at the
9 administrative difficulties of determining what is primary
10 versus secondary. And we have lots of people on my staff
11 that recall the difficulties when we're trying to apply PICC
12 charges. Joel will understand those.

13 So we looked at it in a sort of cost benefit
14 analysis and determined that, as a balance position, it
15 would be better to really try to contain the growth of the
16 fund through limiting support to a carrier who captures a
17 customer, but once that carrier captures the customer we
18 would support all lines.

19 STATE CONSUMER ADVOCATE GREGG: It is correct
20 that we currently charge different rates in states that have
21 reached the cap on the slick between primary lines and
22 secondary lines, correct?

23 MS. GUYER: That's correct.

24 STATE CONSUMER ADVOCATE GREGG: It's also correct
25 that we limit low income support to a single line. Correct?

1 MS. GUYER: Uh, huh.

2 STATE CONSUMER ADVOCATE GREGG: It's also correct
3 that certain state universal service funds limit support to
4 only single lines, correct? It is possible to determine a
5 primary line for individual households, is it not?

6 MS. GUYER: Yes. And here's how I would also --
7 some other caveats I would say -- I think as we look at the
8 cost associated with the administrative issues here, I think
9 the regulators must think about how those costs are covered.

10 And as we have been looking at -- as the changes
11 have been made in the contribution mechanisms and
12 everything, there has been an attempt to contain the cost --
13 administrative cost -- and limit how those costs are
14 recovered.

15 So, as we work through changes in the plan -- the
16 system here -- I would suggest that where there are
17 increased costs associated with implementing the plan, then
18 we must also go back and think about how those costs are
19 recovered and that we have a meaningful opportunity to
20 recover those costs.

21 STATE CONSUMER ADVOCATE GREGG: That's basically
22 all I have.

23 COMMISSIONER THOMPSON: I want to follow up more
24 on the administrative issues, and to understand better what
25 Verizon's proposing. It seems like there's -- if -- what

1 happens if a customer changes back? In a competitive
2 market, you have to assume that might happen.

3 You mentioned earlier that the carriers would be
4 responsible somehow, and I'd like to you explain to me
5 somehow, for certifying to USAC that they're the primary
6 line. What do you do when a customer changes back in the
7 middle of the year? Isn't it going to result in a whole lot
8 more administration for everybody to try and keep track of
9 that?

10 MS. GUYER: Again, Commissioner, we were
11 attempting to balance the growth of the fund and meaningful
12 opportunity for competitors to be able to capture a
13 customer.

14 So there could be occasions when a customer tries
15 a new service, then amends it's current provider and perhaps
16 that current provider then swings back into action and
17 offers new services or whatever and recaptures the customer.

18 That could happen. And, again, for us this was a balancing
19 act.

20 COMMISSIONER ABERNATHY: So this goes back again
21 to sort of the administrative. For those of you -- any of
22 you -- who think that you can go ahead and do this, are we
23 talking about support for certifying a particular carrier?
24 And then it would seem to me, if you certify a particular
25 carrier, why couldn't you just decide that regardless of how

1 many lines they're providing or what they're providing, they
2 only get support is if there is only one line.

3 MS. GUYER: That is -- that could be a reasonable
4 alternative.

5 COMMISSIONER ABERNATHY: Anybody else who wants
6 to comment on the administration of trying to designate a
7 particular carrier versus designating particular lines?

8 MR. LUBIN: I'd like to respond and that is, I
9 actually commend Verizon in terms of coming up with a
10 creative recommendation here. So that -- I'm looking to try
11 to see where creative solutions could be coming from.

12 The concern I have is, if you do that, what
13 ultimately is the size of the fund? And let me explain.
14 What I mean by that is, that would, basically, do it in a
15 way where the size of the fund and the growth of the fund is
16 relatively moderate, constrained so be it.

17 My concern is to, say if a carrier now wins a
18 customer and they get the subsidy for all the connections --
19 let's say a customer moves from wired world to a wireless.
20 Today, on average, there's one point two lines per
21 household -- 20 percent of the household have two lines. My
22 concern is this thing called mobility.

23 It's a different thing than head to head
24 competition. And so what I see happening, is I see business
25 plans on the wireless side where they're selling -- and it's

1 a wonderful strategy and it's a good thing -- selling
2 multiple wireless lines to a home.

3 A couple of years ago -- I have two children --
4 we ended up -- we were on their way to college -- so we
5 ended up buying four wireless connections. How many
6 wireless connections, in that example, do you subsidize? If
7 you subsidized one, then there's, to me, no issue. If you
8 subsidize two, or however many wireless lines they take,
9 then you still have an issue.

10 And so, just to give you a perspective, if all of
11 a sudden customers move to the wireless because they like
12 their business proposition that says, you know what, I can
13 have multiple connections for everyone in the household.
14 Well, all of a sudden, instead of having on average one
15 point two connections per home, I might have two, I might
16 have two point two.

17 For every connection that you add, if there are
18 -- let's just say 10 million rural lines out there -- 60
19 percent of the households today have wireless -- all of a
20 sudden there's 3 billion dollars currently going to the
21 parties through the USF mechanism.

22 I can easily see, of that 3 billion, maybe 60
23 percent of that where they have wireless and they have
24 multiple lines. You could all of a sudden increase that
25 size of the fund by a billion and a half, a billion eight

1 dollars.

2 And so my question is, ultimately, whatever
3 decision you go down, I would hope you ask the question,
4 what is the incremental effect to the size of the fund. And
5 if you go down Verizon's path and you still allow as many
6 wireless connections, or however the business strategy is,
7 you're setting it up for the fact that they fund grows, and
8 potentially significantly.

9 With regard to the administration issue, I think
10 it was already identified that on the slick side many
11 states, many companies already have a primary versus a non-
12 primary rate. I admit there are administrative issues, but
13 they have been solved, they can continue to be solved.

14 And my final point on this is if the various
15 parties are pulling 3 billion dollars of USF and that
16 ultimately is a way -- by the way, I'm not even suggesting
17 that you change the 3 billion dollars, if it's 3 billion,
18 still continue to do it, but do it on primary lines, or the
19 one connection -- they'll find a way, if you're getting 3
20 billion dollars, I think you every incentive to figure out
21 an administratively workable way.

22 COMMISSIONER ABERNATHY: Does this problem go
23 away though if we move away from support per line to a
24 mechanism as we discussed on the previous panel, where we're
25 looking at, you come up with your costs, and to the extent

1 the costs are above a certain level, then your funded based
2 on those costs.

3 Remember we're not really looking at per -- it
4 was never per-line support anyway, until we got ATC --
5 you're really looking at, can you price at a level that's
6 reasonable for the consumers. So would this issue of having
7 to have a concern about multiple lines go away if you're
8 really looking at cost and support based on your cost?

9 MR. LUBIN: Wonderful question. I'm always
10 looking at the answers to these in questions in terms of
11 unintended consequences and economic incentives. And my
12 concern is, yes, the issue of primary/non-primary goes away.
13 You've just created another issue.

14 And the other issue is, if ETC status is granted,
15 and now you have multiple carriers coming in, and now you
16 have multiple networks who will get subsidy, and so I ask
17 the question of, okay, with that model, what are the impacts
18 on the size of the fund? And, quite candidly, I con
19 envision, with the size of the fund -- even grows
20 potentially larger.

21 My only point here is when we ask those
22 questions -- very important questions -- always be asking
23 the question, what's the consequence of the economic
24 incentive under the unintended consequences? And my fear
25 began on that one because you are, in effect, going to hand

1 out subsidy dollars for each network that's granted ETC
2 status.

3 COMMISSIONER ABERNATHY: Assuming again they
4 are -- their costs are above a certain threshold. But,
5 you're right, it still goes back to what are the economic --
6 what's the economic analysis that's going into the decision
7 about whether or not to enter a particular market? And what
8 percentage of that over all equation is the universal
9 support mechanism? How important is that and how much does
10 it come into play and then how much pressure does it put on
11 the fund.

12 MR. STAIHR: Just to kind of tag team off of
13 where Joel was, I agree that is concern for unintended
14 consequences is something we need to think about. And
15 that's part of what you get when you get to a situation of
16 designating a certain carrier as a primary type of thing,
17 because the unintended consequence is, all of a sudden the
18 universal service support becomes a marketing ploy.

19 It becomes something that people use. Sign up
20 from me, call me your primary carrier and I'll give you this
21 discount. I don't think anyone ever intended that to be
22 part of it.

23 But, again, going with the concern of the growth
24 of the fund -- and that's where I started my comments --
25 there are lots of different ways to control that. The

1 capping of the study area total is one way where you can
2 have multiple connections and you don't get into the playing
3 the support as a marketing ploy because it tends to be
4 across the entire study area, but you have addressed that
5 growth issue.

6 STATE CONSUMER ADVOCATE GREGG: Mr. Staihr, are
7 you saying that carriers might actually have to compete for
8 universal service support?

9 MR. STAIHR: Well, it ends up being like dropping
10 the puck at the beginning of the hockey game, right? Here's
11 the money, you guys fight it out for it. Which is fine, but
12 you should be fighting for the customer, not for the
13 subsidy.

14 STATE CONSUMER ADVOCATE GREGG: That goes with --

15 COMMISSIONER ROWE: How is --

16 STATE CONSUMER ADVOCATE GREGG: -- the customer.

17 Go ahead.

18 COMMISSIONER ROWE: How is the incentive
19 different by capping support for the study area on the one
20 hand, or competing directly for the primary line?

21 MR. STAIHR: Because, to use Joel's example, say
22 you have a household that has three wire line lines that all
23 get support. And they're thinking, oh, well, maybe I'll
24 move to get three wireless lines. Well, they all get
25 support.

1 If you cap the study area total, the support will
2 be the same across the technologies. It maybe less, but
3 it'll be the same. Which takes it out of the competitive
4 issue.

5 MR. LUBIN: Could I clarify? Because that's
6 another, I'll say interesting idea. And, quite candidly,
7 from where I sit -- now where do I sit here is, I'm
8 interested in controlling the growth of the fund.

9 What Brian just highlighted is a rational way of
10 controlling the fund. That certainly is fine with me. But,
11 again, I want to raise unintended consequences. And the
12 issue here -- and that's why this is a very difficult
13 problem.

14 The unintended consequences -- let's take the
15 incumbent LEC -- let's just hypothetically say the incumbent
16 LEC has 1,000 lines. And a new entrant comes in, and the
17 new entrant does not win one of those 1,000 lines. They
18 come in with a wonderful mobility package and they sell very
19 quickly 300 lines.

20 So all of a sudden, instead of 1,000 lines --
21 let's say getting a million -- kind of pick a number --
22 1,000 lines getting \$20,000. You now have a wireless
23 entity -- and I don't mean to pick on wireless, but that's
24 the business plan I see, where they're competing, but
25 they're not winning one of the 1,000 lines.

1 So they put in this package, they sell 300 new
2 wireless connections. So, as I understand what Brian is
3 saying, the \$20,000 remains fixed, but the wireless carriers
4 would get 300 over 1300, roughly 22 percent of the fixed
5 amount.

6 And so here again you have the public policy
7 question, do you want a model where a new entrant comes in,
8 the incumbent doesn't lose one line, but their USF that they
9 draw drops 22 percent.

10 Now, you know, maybe that's a good answer. It
11 certainly solves my issue of controlling the size of the
12 fund. But here again, I just want to highlight is, we have
13 two different questions.

14 One question is you're competing head to head and
15 a wireless company wins one of the 1,000 lines versus a
16 mobility question that customers want more mobility, and
17 they may want it for a lot of people in their household.
18 That's why you end up with having 30 percent growth in
19 connections.

20 So, again, there are clearly, from my point of
21 view, two different questions. And that's why we get all --
22 that's why I got confused for quite a while. And my
23 confusion is, do you use the same per-line subsidy? And I
24 say, yes, you use the per-line subsidy the same when you're
25 competing head to head for that 1,000 lines.

1 But when you're asking the public policy
2 question, should I subsidize those new 300 lines for
3 mobility, that's a different question. And I'm not saying
4 you shouldn't, but the determination -- and now where
5 Commissioner Abernathy is -- when you asked the question of
6 those 300 lines, you ought to be looking at the cost for
7 those 300 lines would benchmark for mobility.

8 Maybe it's \$30, maybe it's \$40, maybe it's 25, I
9 don't know, and compare their cost for the new mobility
10 lines. That's a different question than competing head to
11 head for the existing 1,000 lines.

12 COMMISSIONER DUNLEAVY: Let me shift a little bit
13 here. Setting aside for a moment the network support versus
14 the per-line support issue. Just, arguably, assume per-line
15 support for the primary line, is there a number below which
16 or above which support for service or competition become
17 negligible? Is it one dollar? Is there an actual number?
18 Is it an absolute number?

19 MR. LaFURIA: I'm not sure I understand the
20 question, sir.

21 COMMISSIONER DUNLEAVY: Well, I'm suggesting now,
22 is there a level per-line support below which its impact on
23 universal service is negligible?

24 MR. LaFURIA: I suspect that varies by areas.

25 COMMISSIONER DUNLEAVY: Okay.

1 MR. LaFURIA: You know, do --

2 COMMISSIONER DUNLEAVY: But there is -- that's --
3 there is such a thing? There was a way to get there? Is
4 that an economic issue, Mr. Staihr?

5 MR. STAIHR: Yes, actually it is. I think if you
6 were to look at Sprint's local territory, which is extremely
7 rural and we get a lot of federal USF. But in some cases we
8 only get a dollar or two per line. If you were ask our, you
9 know, the people who specifically work in those areas if
10 that makes a difference, absolutely, because we're counting
11 on that money right now.

12 Now would it make a difference in terms of a new
13 investment decision? I think in varies situations it
14 absolutely could. I think there are also other areas, other
15 regions where it wouldn't. It's kind of a non-answer, but I
16 really think that's the answer.

17 COMMISSIONER ABERNATHY: But does it really go,
18 ultimately, to the over all business decision you make about
19 how much -- if I'm the next one in the market, not the first
20 in the market, there's already somebody there. So I'm the
21 second one to the market, I won't get full penetration, how
22 much can I predict?

23 And then so does it really go to the over all
24 business decision you make about how many lines and how much
25 profitability do I need to justify entering that particular

1 market?

2 MR. STAIHR: Yes, I think it would -- absolutely
3 does, yes.

4 MR. LaFURIA: Commissioner, if I could just add
5 to that? It absolutely does and it is only the per-line
6 support methodology that will properly drive those decisions
7 in an efficient manner. If carriers are paid upon their own
8 costs, I look at that as nothing short of corporate welfare
9 for both companies or both competitors in the marketplace.

10 That is, if you're going to support multiple
11 networks, and if the second network in is paid on their own
12 costs, then we set up a model and a competitor comes in and
13 they say, this is higher cost for us and we're above the
14 threshold and we need support. And they get it, and they go
15 in and they enter.

16 They're going to get dollars that permit them to
17 build a complete network throughout an area whether it's
18 appropriate to be built or not. And there is not
19 corresponding bumping of heads in the marketplace between
20 the incumbent and the new entrant, because there's no
21 incentive for that bumping of heads.

22 When you set the support at one level and say
23 it's \$10 for this area, come and get it, you force each
24 competitor in the marketplace to find a way to provide
25 service at the most efficient level.

1 COMMISSIONER ROWE: Thanks. Let's stay with this
2 discussion of the difference between determinate costs on
3 the one hand and figuring out how to allocate payments on
4 the other, particularly if you're basing support on the wire
5 line network.

6 It seems to be relatively clear that the
7 incremental cost of a second line starting with the loop up
8 through the switch transport is probably not terribly
9 significant. I suppose if you're using wireless cost, it'll
10 look different. But even there, as you add customers, you
11 can give -- there's some tolerance before you have to
12 actually reinforce the upstream network function.

13 So, is that correct, and, in fact, are we not
14 talking about the cost of providing service to a second
15 line, but simply dealing with the implications of making
16 payments for multiple lines? Is that correct, as far as we
17 go?

18 MR. REIF: You know, I think that paying support
19 on a primary line basis could be properly implemented if you
20 had effective competition in a marketplace first. The way
21 the system is currently set up, if you jump to a primary
22 line payment only -- and however you define it and whatever
23 other requirements you come up with -- the competitor coming
24 into the marketplace on a per-line basis can't possibly step
25 in and construct enough network facilities to make it work

1 because they're only getting paid on a per-line basis.

2 And it goes back to the, you know, would you
3 construct this market if your return is somewhat guaranteed
4 over a reasonable period of time. ILECs have operated under
5 that system for a long time. I'm not suggesting -- and our
6 comments haven't suggested -- that wireless should be under
7 purely the same mechanism today.

8 What I am suggesting is that, if you flash cut to
9 primary lines only today in areas -- not in the town of
10 Bluefield where I described earlier, but out in the outer
11 lying areas -- there's no way to -- for -- a competitor, no
12 matter what technology they use, to jump into the
13 marketplace and say, we're going to invest hundreds of
14 thousands if not millions of dollars in this area in the
15 hope that we can win over a few customers here at the
16 outset.

17 There's not the possibility of return or the
18 substantial expectation of return that the Commission very
19 clearly said needs to be present -- I believe it was in the
20 South Dakota Preemption Order in 2000 -- and that's the
21 barrier to entry that is being erected here.

22 If we transition to this, and reached a point
23 where competitors were effectively competing with each
24 other, where a competitor takes market share away, then it
25 could work.

1 And, finally, I will say in response to Mr.
2 Lubin, I don't represent a single client, and I don't know
3 of any --

4 COMMISSIONER ROWE: That's not responsive to my
5 question, though, I don't believe.

6 MR. REIF: I'm sorry.

7 COMMISSIONER ROWE: And, again, going back to the
8 distinction between the cost of providing service -- the
9 incremental cost of second lines on the one hand versus how
10 you determine the basis for payment. Were the
11 assumptions -- first of all, were the assumptions behind my
12 question correct?

13 MR. STAIHR: With regard to the way support is
14 calculated now, not for rural companies and not for non-
15 rural companies, is there a difference in the cost between a
16 primary and a secondary line? For rural companies it's
17 total cost; for non-rural companies the model calculates all
18 lines. It doesn't separate out second lines.

19 So when you're talking about the cost per line in
20 an area, right now the way support's calculated, it's all
21 the same.

22 COMMISSIONER ROWE: So on the payment side of
23 that, that's what we're really focusing on. How to either
24 avoid underpaying or overpaying for the network. Is that a
25 fair statement?

1 MR. STAIHR: Yes, and just to -- and I hope I'm
2 not going off track here -- the way the costs are calculated
3 right now, assume the entire economy is at scale that are
4 associated with the incumbent's network, okay? Those are
5 not necessarily the economies of scale, but can be instantly
6 replicated by any new entrant. And so in that sense, they
7 actually could very well underestimate the actual costs.

8 COMMISSIONER ROWE: That's back to your point.

9 MR. REIF: Yes. That's what I was trying to get
10 to.

11 COMMISSIONER ROWE: Okay. Anyone else want to
12 respond to that? Thank you.

13 COMMISSIONER ADELSTEIN: Just to try to get a
14 sense of -- a lot of us are trying to understand what the
15 scope of the savings would be from some of these different
16 proposals. And to try to get our mind around what the facts
17 are, because we talk a lot about whether it's a primary or
18 secondary line, this rise of wireless substitution.

19 But I'm wondering if we have any evidence
20 documented or any studies about what percentage of customers
21 in rural states that are going to wireless service are using
22 that as a primary line or primary connection. Are they
23 really cutting the cord, or do we have any sense what the
24 scope is of how many are primary lines and how many are just
25 additional lines in the house?

1 MR. LaFURIA: I would say -- I would only be able
2 to talk for you anecdotal evidence from the folks that I
3 work with and that is that in the towns, the primary areas
4 where they serve and where we contend support may not be
5 necessary, there is a level of substitution which is
6 equivalent to or even greater than what you see in urban
7 areas today. And we have every reason to believe it's going
8 to increase.

9 These carriers are providing offerings out in the
10 more remote areas where it is higher cost, but they are not
11 finding the same level of uptake out there in substitution
12 simply because consumers out there, at this date, do not
13 have the ability to look at that phone and say, gee, I can
14 use this phone everywhere I live, work and play. I can use
15 it in my community, I can depend on it for 911 when I leave
16 the house.

17 So therefore it's a complimentary service. When
18 I'm on the road, when I go to town, and maybe when I'm in my
19 home. It is that gap which I contend we need to fill.

20 MR. LUBIN: The only empirical data that I have
21 is what I referred to early on whereby the wireless lines
22 went from 45 million to 141 million at the same time we see
23 that the households went -- that have telephony -- went from
24 101 to 109 at the same time where the penetration of
25 telephony also grows.

1 So the empirical data suggests that wired lines
2 are increasing at the same time wireless lines have -- went
3 up by more than factor three. The intersection, though,
4 here is that, if a customer -- from my point of view -- if a
5 customer is substituting the service -- meaning they are
6 dropping a wired line to get a wireless line -- then they
7 should get the same subsidy per-line that the incumbent gets
8 because it's head to head competition.

9 The second question of, do I want to subsidize
10 mobility in and of itself -- which, by the way, is a very
11 legitimate questions -- should I upgrade the infrastructure
12 in rural America to be that of urban America? That's a
13 legitimate question.

14 All I'm saying is, I think we need to literally
15 evaluate that stand alone, and when you're evaluating that,
16 then all of a sudden the subsidy per line that you're
17 getting when you substituted is different for all the
18 reasons that have previously been said.

19 COMMISSIONER ABERNATHY: -- another carrier for
20 the wireless, are you then suggesting that they get support
21 for both of those lines because it was somehow -- there's
22 head to head competition when it's wireless for wireless
23 or -- is that what you were suggesting?

24 MR. LUBIN: No. What I'm suggesting -- I missed
25 the first part of what you said, so I'm sorry if I's

1 repeating --

2 COMMISSIONER ABERNATHY: Well, you very carefully
3 distinguished in your comments, head to head competition --

4 MR. LUBIN: Yes.

5 COMMISSIONER ABERNATHY: -- and stated that's
6 only when it's appropriate for the support to be, but what
7 if a customer has wireless and wire line support from an
8 incumbent, and then they switch just the wireless part of
9 what they purchased. Should they then receive support for
10 both of those services because there's head to head
11 competition wireless to wireless?

12 MR. LUBIN: From where I am is there should be --
13 when you're looking at a primary line -- and maybe the
14 question is, who decides the primary line, and I would say
15 the customer decides the primary line -- but there should be
16 one line which should get the subsidy and that could be a
17 wired or wireless.

18 So there's only one connection in a household
19 that gets the subsidy, it's wired or wireless, the customer
20 makes the decision based on the package that each party
21 presents to them.

22 COMMISSIONER ABERNATHY: Okay.

23 MR. LUBIN: I'm not saying that we shouldn't
24 subsidize more mobility lines, what I am saying is that's a
25 separate question. And when you analyze that question, the

1 subsidy per line that one should be looking at is very
2 different than when you're competing head to head.

3 And that's -- and so what I find myself is -- I
4 agree with the incumbent LECs on a lot of the issues. I
5 agree with the wireless carriers on a lot of the issues.

6 COMMISSIONER ABERNATHY: Uh, huh.

7 MR. LUBIN: Okay, but what I'm saying to you is,
8 for me these issues get confused because they're not
9 uncoupled.

10 COMMISSIONER ABERNATHY: When you're talking
11 about competing head to head, do you mean that once an
12 entity comes in, seeks ETC status, takes on the obligations
13 associated with being an ETC, that's competing head to head?
14 Is that what you would say?

15 MR. LUBIN: Yes, with one other constraint, which
16 is you're competing head to head for the primary line. See,
17 once you say competing for multiple lines, the whole -- it
18 just becomes thoroughly confusing.

19 COMMISSIONER ABERNATHY: And so --

20 MR. LUBIN: The reason --

21 COMMISSIONER ABERNATHY: And so then you -- would
22 you say select a carrier or select a line?
23 Administratively, what do you think --

24 MR. LUBIN: For me it's select a line and a
25 carrier. And the reason I say that is you're only going to

1 subsidize one.

2 COMMISSIONER ABERNATHY: Right.

3 MR. LUBIN: You're not going to subsidize two.
4 However, when I say that, I want to be clear as I do believe
5 you need to have a separate review as a good public policy
6 on the mobility in and of itself to upgrade that
7 infrastructure for mobility. That's a different question of
8 what USF is for.

9 COMMISSIONER ABERNATHY: But --

10 MR. LUBIN: And the answer might be -- yes, the
11 answer might be no.

12 COMMISSIONER ABERNATHY: But that question was
13 solved -- I thought addressed a long time about -- ago -- by
14 the FCC when, fundamentally, it awarded all these licenses
15 for rural America and did not provide any support and the
16 business models either supported investment or didn't
17 support investment.

18 But that's kind of different than when a wireless
19 carrier comes to the table and says, I now want to enter the
20 world of being a carrier of last resort and being authorized
21 to be classified as an ETC.

22 STATE CONSUMER ADVOCATE GREGG: On the issue that
23 was partially raised by Commissioner Adelstein on the impact
24 on the size of the fund from limiting support only to single
25 lines, to primary lines, Mr. Reif, NASUCA estimated at page

1 2 of its reply comments that limiting support to primary
2 lines would reduce the fund by 336 million dollars.

3 First off, is that correct? And do any of the
4 other parties have any other estimates of the impact? And I
5 would like to hear from Mr. Lubin concerning the impact of
6 his rebasing proposal for rural carriers, of limiting it
7 primary lines.

8 MR. REIF: You remember the comments very well.
9 That is a precise recollection.

10 MR. LUBIN: To me they're two issues. One is
11 the -- what's the incremental size of the fund? And, quite
12 candidly, for me the issue is not what the incremental size
13 of the fund would be today, I'm worried about once you
14 create a clear and bright rule such that the economic
15 incentives are going to be very clear and all of a sudden,
16 if it's for every line or connection, then I can see easily
17 that wireless would have a good business strategy to enter
18 very aggressively.

19 And what you see today is not what you're going
20 to see two years from now. And I can easily see -- based on
21 the fact that, you know, people want mobility -- I can see
22 easily the size of the fund easily growing by more than a
23 billion dollars.

24 The second question that has been raised, if I
25 understand it correctly, is what -- how much money would be

1 saved if we went to primary line. There are two ways of
2 implementing that -- I'm sure there's more than two ways --
3 but if you did that, I would estimate, since there's roughly
4 20 percent of the line -- households have second lines, we
5 haven't been able to figure out the business aspect because
6 that would also be another contributing factor -- but, just
7 rough justice, you would decrease it by roughly 20 percent.

8 But -- here's my but -- I've raised unintended
9 consequences on other issues, and let me talk about
10 unintended consequences on what I've described -- is that
11 what AT&T has suggested to minimize disruption that you can
12 keep the size of the fund where it is and just spread it
13 over primary lines, such that you are not disruptive in the
14 marketplace. The alternative is, roughly, rough justice,
15 lower than 20 percent.

16 Realizing -- and it was raised earlier -- if you
17 only support the primary line, there are 20 percent of the
18 households who have a second line. What do you do about
19 that? And you have to, I think, be prepared to say, okay,
20 I'm not going to give a subsidy to those second lines.

21 And it's not so much a day one issue, but it is a
22 going forward issue. Am I going to allow the rate for the
23 second lines to rise by virtue of the subsidy that they
24 otherwise would have gotten? In other words, it's one thing
25 to say, I'm going to subsidize the primary and not the other

1 lines, but if I do that, then, you know, if their costs are
2 high, you're going to have to give rate flexibility on that
3 second line.

4 So, what I'm just trying to highlight to you is,
5 you know, on each solution one has to look at the
6 consequences and that's one of the consequences that I see.

7 Obviously, there's many variations of what I'm talking
8 about, but that -- those are the kinds of things that we
9 have highlighted.

10 STATE CONSUMER ADVOCATE GREGG: And that would be
11 a state issue, what carrier's charge in those particular
12 states would be up to each state.

13 MR. LUBIN: Again, multiple -- one answer is yes.
14 When it comes to -- I'm trying to be forthright with you.

15 COMMISSIONER ROWE: Are you a lawyer or an
16 economist?

17 MR. LUBIN: I am neither. Is that -- yes, on the
18 local side it could be a state issue, but, you know, I have
19 interstate slicks. I mean I don't know where the various
20 parties would come from. I mean some parties might say,
21 hey, it's in the interstate jurisdiction, if you're going to
22 do this I want flexibility on my interstate slicks. I don't
23 know. But I can see that as another option.

24 COMMISSIONER ABERNATHY: Although, don't you also
25 have to factor in -- I don't know, but I think that second

1 lines are generally priced well above the cost of actually
2 having a second line anyway, so then you have to factor all
3 that in.

4 MR. LUBIN: Yes. Now, yet that's a fair point.
5 And now the issue is really just how complicated do you want
6 to get. But I think that's a very valid point.

7 MR. LaFURIA: Mr. Gregg, if I might -- go ahead.
8 I'll follow you.

9 MS. GUYER: I think Joel raises a lot of dilemmas
10 that we had considered and that's why, ultimately, our
11 proposal was meant to reflect a measured, I guess, step
12 towards trying to contain the growth of the fund by going to
13 the issue of capturing the customer and then leaving the
14 multiple lines covered. It was a measured step, trying to
15 avoid a lot of these dilemmas.

16 Let me also mention that in the data that we had
17 looked at, it wasn't at 20 percent, I think it was closer to
18 15 percent. Perhaps we had different data that we rely on
19 in terms of customers who have multiple lines.

20 MR. LaFURIA: I think the testimony here thus far
21 that I've observed is that we are looking at a lot of
22 potentially unintended consequences, and it seems to me that
23 the first order of business should be to select the easiest
24 to implement and the most competitively neutral alternatives
25 to grow -- control growth of the fund.

1 And if moving ILECs to forward-looking economic
2 costs, implementing full portability, and capping support
3 and disaggregating support do the trick in the short term to
4 permit this transition period to occur that Mr. Wood talked
5 about, then we can avoid a number of the administrative
6 problems and potentially severe unintended consequences that
7 everyone here has talked about.

8 COMMISSIONER ABERNATHY: Go ahead.

9 MR. STAIHR: I was just going to add real
10 quickly -- and I just wanted to ask -- I understand
11 everything, Joel, you talked about, but how -- I don't
12 understand how your situation works with the situation I
13 described earlier with two people in the same house, each
14 with a primary line.

15 MR. LUBIN: I'll be glad to answer it -- I've got
16 two answers. One, legitimate issue. The issue exists today
17 when you have primary and non-primary slicks --

18 MR. STAIHR: Oh, they both paid the primary
19 slick.

20 MR. LUBIN: Okay, you know, then that -- if
21 that's a reasonable convention, then follow that reasonable
22 convention and develop a record and the records probably
23 there because you can say, hey, that's already the way it
24 works.

25 Now my point here is, there's over 3 billion

1 dollars that the companies are receiving and you need to
2 figure out a way to constrain the growth and if this is a
3 rational way to do that, then people who are receiving 3
4 billion are going to figure out rational ways and the most
5 economic way to administer it.

6 COMMISSIONER ROWE: I'd like to change the topic
7 if I could and would appreciate hearing all of you fight
8 about the billing address question for a minute or two. Is
9 that a big issue or not? If it is an issue, is it
10 appropriate to require something and if so, what should that
11 be and what kind of verification should be required?
12 Assuming there will be a couple of different strongly held
13 opinions on this one.

14 MR. LaFURIA: Well, the wireless carrier -- I
15 guess maybe I should go first on this one. I'm -- whatever
16 method you select should be similar, if not the billing
17 address. That is, the billing address is administratively
18 simple, it's easily verifiable and auditable and it does the
19 job.

20 I believe this is a complete non-issue that has
21 been raised in the comments with respect to wireless
22 carriers. The most important thing is to ensure that
23 wireless carriers, or any other competitive carrier that
24 enters a high-cost market, spend those dollars where they
25 belong.

1 When you target a customer's billing address --
2 or residence address, whatever you use -- to a spot, and
3 that customer buys some enhanced package of service that
4 allows them to roam in New York, it's been alleged that,
5 well they're using a supported phone to have service in New
6 York. And that is simply not true.

7 Consumers who purchase services that allow them
8 to have nationwide functionality pay for that service out of
9 their own pocket. They pay incremental revenue. It would
10 be vertical services in the wire line parlance. So those
11 dollars coming in are not being used improperly.

12 They are only used improperly if a carrier takes
13 revenue dollars that are support and spends them in an
14 improper fashion. So as long as the dollars are being spent
15 in the targeted high-cost areas, then the purpose of the
16 program is being accomplished.

17 STATE CONSUMER ADVOCATE GREGG: Mr. LaFuria, just
18 to follow up over on you. Would it be proper for a wireless
19 carrier to serve a customer with multiple locations
20 throughout his service territory, like an insurance company,
21 and to have all those bills delivered to a P.O. Box in a
22 high-cost wire center, and thus receive excessive high-cost
23 support because of that billing address?

24 MR. LaFURIA: Absolutely inappropriate. No
25 question about it. If that insurance company has an address

1 that is their primary billing address and that's what they
2 give a carrier, that's what should be used. Any carrier
3 that goes to a customer and says, if you use a P.O. Box over
4 here, I can get more support, that's absolutely
5 inappropriate.

6 And I -- you know, there's -- given what most of
7 these wireless carriers have at stake, I would think it
8 would be the kind of a risk and the kind of an activity that
9 would be extremely unlikely to occur.

10 STATE CONSUMER ADVOCATE GREGG: Okay. Thank you,
11 sir.

12 MR. STAIHR: If I could just follow up, it's just
13 as often that it happens the other way. If you've got
14 parents in Kansas City and their kid goes to school in
15 Tarkio, Missouri -- a little bitty town up in northwest
16 Missouri, which is a high-cost area -- the billing address
17 is in Kansas City -- not a high-cost area -- they get no
18 support for the phone, even though the phone is operated in
19 and using the facilities in a high-cost area.

20 So the billing address discrepancy works both
21 ways. I don't know if, on average, it tends to even itself
22 out, but I don't have any reason to believe one way or the
23 other.

24 COMMISSIONER ABERNATHY: Okay. Any last
25 questions? We're doing great, then. This is great. We'll

1 finish up -- this panel up -- a little bit early. That
2 allows a little bit more time for folks to get out and get
3 some lunch. The next panel starts again, I believe, at
4 1:30 --

5 COMMISSIONER THOMPSON: One fifteen.

6 COMMISSIONER ABERNATHY: One fifteen? Oh, I
7 lied. One fifteen. So if the last panel could be back here
8 in the room at 1:15, we will start it. And I want to again
9 thank everyone for coming.

10 (Whereupon, at 12:00 p.m., the meeting was
11 recessed.)

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1 A F T E R N O O N S E S S I O N

2 PANEL THREE

3 ETC DESIGNATION PROCESS

4 COMMISSIONER ABERNATHY: Again, thanks to
5 everyone for sticking around as we deal with our primal
6 issue, which the ETC designation process. And we're very
7 fortunate on this panel to have two commissioners who've
8 also agreed to participate, explaining what their states are
9 doing as well as other participants.

10 So, again, we'll start at this end of the table
11 and move on down and have all of you give us your
12 presentations. And we will start off with Commissioner
13 Elliott Smith, who's from the Iowa Utilities Board. Thanks
14 for joining us.

15 MR. SMITH: You bet. Thank you very much for
16 this opportunity to appear before the joint board this
17 afternoon. I'm pleased to be able to participate as
18 representing my own opinion, not necessarily that of the
19 board as a whole, just to make that disclaimer right out
20 front.

21 I would like to take a second, though, to sort of
22 explain Iowa's unique telecom landscape. There are
23 approximately 153 wire line incumbent local exchange
24 carriers currently operating in Iowa. I believe that puts
25 the state -- ranks the state as having the most ILECs.

1 Now only the three largest carriers are regulated
2 by our board. The average size of these small companies is
3 approximately 700 access lines generally serving the rural
4 areas in the state. The complexity of this market is
5 compounded by the addition of 36 competitors who have been
6 approved with ETC designations. And, again, most of these
7 serve the rural areas.

8 The majority of the small incumbent companies are
9 experiencing either no access line growth, and in some
10 cases, slight reductions. This appears to be caused by a
11 number of factors, three of which are slow population growth
12 in Iowa, migration from the rural to urban areas, and
13 deployment of advance services, which no longer utilize
14 second or additional voice lines.

15 In the absence of access line growth, these
16 companies are finding it difficult to reduce their average
17 cost per customer. Throughout Iowa, most customers have the
18 option of obtaining voice service from at least one wire
19 line and one wireless service providers. Although these
20 services may not be interchangeable necessarily.

21 At this time, it appears most wireless service
22 providers have positioned themselves as an alternative to
23 long distance. Consumers are using wireless more as a
24 compliment to their traditional wire line service.

25 It's important to note that our ILEC industry in

1 Iowa has made substantial infrastructure investments and has
2 developed a long history of providing dependable and quality
3 service which has been considered essential by both federal
4 and state policy makers.

5 Today I'd like to offer my comments on three
6 issues we see as crucial to the universal service fund and
7 the ETC designation process. They are the designation of
8 wireless carriers' service area for ETC status, the
9 application uniform service quality standards, and the
10 portability of universal service funds.

11 In Iowa -- looking at the first issue,
12 designation of wireless carriers' service area -- in Iowa,
13 the wire line exchange boundaries have evolved over the
14 decades based on the ownership of telecommunications
15 facilities in the location of the customers being served.

16 These exchanges are a regular in shape and do not
17 follow a traditional county or municipal boundary lines.
18 Often these exchanges -- these companies -- often companies
19 serve multiple exchanges and are separate. It appears as
20 though the exchange map looks like a jigsaw puzzle at times.

21 Moreover, many of the established wire line exchanges
22 include both urban and rural areas.

23 In granting ETC status to wire line competitors,
24 the Iowa Utilities Board has been very concerned about the
25 potential for cream skinning by the CLECs. Some CLECs have

1 been very clear that they would prefer to serve low-cost
2 urban customers, but the IUB, the Iowa Utilities Board, has
3 typically required that the CLEC offer to serve all eligible
4 customers within the historic Iowa exchange.

5 In contrast, as you know, wireless service areas
6 are set by the FCC based on county lines. Wireless and wire
7 line service areas do not correspond as a result, and often
8 wireless service providers cannot cover the entire wire line
9 exchange, let alone study areas, because of the irregular
10 shape of the wire line exchanges, which are limited to the
11 county by county licensing.

12 This difference in service area is not something
13 the wireless carrier has chosen, rather it's now one of the
14 FCC's licensing practices. Because it's not a result of the
15 carrier's decision, it does not appear to raise the same
16 concern as related to cream-skimming.

17 As a result, the Iowa Utilities Board is
18 considering rules currently that would allow wireless
19 service providers to be designated as ETCs, even though the
20 wireless service area may be less than the wire line
21 incumbent historical service area.

22 Allowing these wireless carriers the opportunity
23 to provide local service to parts of exchanges or wire
24 centers may help the provider maximize the use of its
25 wireless serving area license and give more local service

1 choices to consumers.

2 The second issue, the uniform service quality
3 standards. Reasonable service quality standards are
4 imperative, of course, to providing dependable, high quality
5 local service to our Iowa customers.

6 The joint board has recommended that the FCC no
7 impose federal, technical or service quality standards as a
8 condition of receiving universal service report, and I am
9 generally in agreement with these recommendations of the
10 board. The FCC should not impose federal service quality
11 standards because these issues are best handled by the
12 individual states.

13 Service standard requirements vary by state and
14 it would be difficult for the FCC to establish uniform
15 national requirements without imposing on the regulatory
16 authority of the individual states. I would suggest that
17 the requirement of service quality measurements should be
18 applied uniformly to all ETC carriers within each individual
19 state to the extent it's technologically feasible to do so.

20 Competitive ETCs should provide service meeting
21 the same or similar quality standards as traditional wire
22 line providers before the competitive ETC can receive
23 universal service funding. Iowa is currently in the initial
24 stages of proposed rule making to deal with these issues.

25 Competitive ETCs should also be required to

1 provide the list of minimum services as is required of the
2 incumbent wire line carriers. In addition to the standard
3 list of support services, others could include things such
4 as a 911. This requirement would place all carriers on
5 equal footing when providing basic, competitive services in
6 the state.

7 Finally, portability of the universal service
8 funds. This issue is one of the biggest challenges facing
9 the universal service fund. Wireless -- the majority of the
10 150-plus small rural companies in Iowa receive high-cost
11 support payments. This is an indication of substantial per
12 customer investment and expense for these organizations.

13 Wireless ETC service providers are receiving
14 high-cost universal service support payments based upon the
15 costs of the incumbent carrier. Wireless carriers don't
16 have the same facilities or investments as these incumbent
17 wire line carriers.

18 Cost for providing wireless service generally
19 have not been furnished to regulators, but on the surface it
20 appears that the cost of providing the service by these
21 wireless carriers may be less than the wire line carriers.
22 On a per customer basis anyway. Therefore, it may be
23 appropriate that the levels of support paid to wireless
24 carriers or the CLECs should be something less than the
25 current support payments paid to the ILEC's.

1 I encourage the joint board to consider universal
2 service fund support payments based on -- paid on the basis
3 of each carriers' cost to serve provided that the ETC or
4 CLECs' costs are below that of the incumbent.

5 With that, that concludes my comments, and I'll
6 certainly be interested in answering the questions you might
7 have. Thank you very much for this opportunity.

8 COMMISSIONER ABERNATHY: Thank you, Commissioner
9 Smith. And now we'll turn to the Honorable Ann Boyle, who's
10 with the Nebraska Public Service Commission. And, again,
11 thank you for staying around an extra day and giving us your
12 time.

13 MS. BOYLE: Thank you, and it is an honor to
14 appear before you. Today we are here as we continue to
15 attempt to provide the twin goals of competition and
16 universal service at one of the most economically challenged
17 times in recent history.

18 In the early stages of review, it seemed that --
19 and by that, I mean the review of providing service and in a
20 competitive market -- it seemed that the lure of competition
21 overshadowed the equally important goal of universal
22 service.

23 Today the balance has shifted and the question
24 has become should universal service support more than one
25 network? Some of us ask if universal service is used to

1 be -- it should be used to subsidize competition. All of
2 know those are difficult questions to answer as we continue
3 to live in an ever changing world that cannot turn its back
4 on the advances in technology.

5 Public interest is difficult to define. I would
6 be terribly concerned that a guideline or guidelines -- it
7 could be construed as hard and fast definitions -- would be
8 so limiting to states that we are unable to work with them
9 in the fluid environments in which we live.

10 Perhaps a minimal set of standard could be
11 considered, but it will be with great reluctance that I
12 would make such recommendations. Frankly, I believe the
13 public interest is in some way spelled out in the Act. And
14 it is also common sense in how we construe the public
15 interest.

16 Perhaps there is another way to look at achieving
17 our twin goals. As we know, states have been criticized
18 recently -- and I feel in some respects, improperly -- for
19 too loosely defining public interest from granting ETC
20 status. However, we are disconnected when we grant ETC
21 status from any oversight of the fund -- of the federal
22 fund.

23 A court decision in North Dakota found that
24 states are not responsible for sustainability of the federal
25 fund and such an analysis cannot be part of our

1 determination. With that disconnection, we are unable to
2 determine one of the factors which are nearly always
3 considered in every decision making, and that is the over
4 all cost of our decision.

5 I suggest that the FCC relook at how funds are
6 allocated. Using a formula to be determined -- and this is
7 only a suggestion based on, perhaps, wire center -- a
8 certain amount could be allocated to each state on an annual
9 basis or whatever time frame that is considered. But at
10 least the state will be aware of how much has been allocated
11 to that state. They would then have the missing piece of
12 determining public interest, while continuing to attempt to
13 address twin goals of universal service.

14 And, in addition, states would be more
15 accountable to how much funding there is and we would not be
16 thinking that we are just continuing to allow carriers to
17 get into -- to be given ETC status, and feeling that it's
18 all going into a black hole that can never be filled because
19 we don't know, at the end of the day, what my counterpart in
20 Iowa's doing, or in New York or California, or anywhere
21 else.

22 There are also suggestions that some states --
23 and this is where the criticism comes from -- of simply
24 granting ETC status because it allows them to get more money
25 out of the fund. There have also been comments made, and

1 they are not -- they're only -- I consider rumor type
2 comments -- but the comment is this, that Wall Street is
3 telling wireless carriers to come in and go after their ETC
4 status in all the states because the money is available.
5 And if they don't get it, they were downgrade their stock.

6 So they're caught in a trap. Are they going to
7 downgrade their stock on Wall Street or are they going to go
8 after the after the funding. I think it creates terrible,
9 terrible conflicts for the state as for the carriers.

10 And as recently as only two weeks ago, we had a
11 carrier come in who was doing exactly that. At the end of
12 his testimony he said, you know, Commissioners, it's only
13 \$5,000. And so I said to it, it is \$5,000 per month, isn't
14 that correct? Yes. And I said, aren't you applying in
15 about 15 other states? Yes.

16 Nebraska, one of the smaller states that
17 they're -- where they're applying, you can easily see -- do
18 the math -- that's a million dollars a year for one carrier
19 because, I think -- part of which is Wall Street's
20 determination -- that they don't go after money that's
21 available, their stock is downgraded. It is not the first
22 time that I think pressure from Wall Street has forced
23 companies into some things that, perhaps, they would not do
24 otherwise.

25 That's kind of a formula or working with the

1 states and either allocating or telling us how much money is
2 available per state, but also help make us much more aware
3 of the very subtle changes that take place in the industry
4 because of new technologies, which almost unnoticeably start
5 to deplete revenues until we are in a state of alarm, which
6 is where we are today.

7 We all know that many government programs are
8 determined by formula and funded state by state. So this is
9 not a new idea. It would be a very different way of
10 disbursement, and it would require even greater partnership
11 between the FCC and the states.

12 In the interest of time, I'll move on to whether
13 or not regulatory parity should be a guiding principle. The
14 answer is yes, it should be. The question is, should parity
15 be determined on requiring ETCs to offer it the same
16 services and quality and should -- or should it be
17 determined by providing fewer funds for fewer services and
18 lower standards.

19 I believe that we should always look at things
20 through the eyes of the customer. The customer doesn't
21 understand the fine nuances of cost allocations based on
22 lower standards. They only know that they expect to get a
23 quality product and good service for their investment of
24 their hard earned cash. Consumers should not be short
25 changed on a service or options.

1 Furthermore, without further information, it
2 seems when we break from uniformity, we sometimes create
3 bureaucratic nightmares which require constant tweaking to
4 ensure that is fairness in what we're doing.

5 And with that, I thank you for the opportunity to
6 be here today.

7 COMMISSIONER ABERNATHY: Thank you, Commissioner.

8 And now we'll turn to Mikal Thomsen, who's with Western
9 Wireless, and thanks for joining us here.

10 MR. THOMSEN: Good afternoon. I'm president of
11 Western Wireless Corporation, the largest rural wireless
12 cellular service provider in the U.S. and the first wireless
13 carrier to be designated an ETC.

14 We began seeking designation as an ETC in 1998,
15 and are now the largest competitive ETC in the nation
16 eligible for universal service funding in 14 states and on
17 the Pine Ridge Indian Reservation.

18 Western believes that, in general, the FCC and
19 state commissions have conducted a thorough analysis of
20 whether the public interest is served prior to designating
21 additional ETCs in areas served by rural telephone
22 companies.

23 Contested evidentiary hearings were conducted on
24 almost all of Western Wireless' 15 ETC applications. The
25 average length of state commissioned ETC proceedings was 21

1 months. State commissions considered whether the public
2 interest would be served by the designation of an additional
3 ETC, and provided all parties every opportunity throughout
4 the contested evidentiary process for the presentation of
5 evidence in the public interest.

6 The cost of prosecuting an ETC application, the
7 uncertainty of the regulatory process and the length of time
8 to obtain a final ruling are significant barriers to entry
9 into the universal service market. The joint board should
10 reject suggestions to impose service requirements beyond the
11 list of covered services.

12 Every carrier must be able to distinguish itself
13 in the marketplace in order to succeed. It does this
14 through its rates, terms and condition, service offerings
15 and service availability. Incumbent carriers, which have
16 market power, and competitive carriers, which do not, should
17 not be subject to the same regulations aimed at controlling
18 incumbent market power.

19 If a competitive carrier's service quality is
20 sub-par or its prices are too high, consumers will not use
21 it. The requirements with which universal service
22 recipients must comply already apply with equal force to all
23 carriers.

24 The goal of preserving and advancing universal
25 service will not be furthered without a competitive

1 universal service system. Consumers in all markets should
2 receive the benefits of a competitive marketplace.

3 The current funding mechanism for rural telephone
4 company areas, which is solely based on the incumbent
5 carrier's embedded cost structure is incompatible with an
6 efficient competitively neutral system as envisioned in the
7 1996 Telecom Act.

8 A funding system based on the most economically
9 efficient technology of serving rural consumers will provide
10 the proper incentives for carriers operating in a
11 competitive universal service market.

12 My three minutes are up. I'll hand it over.

13 COMMISSIONER ABERNATHY: Do you have some -- you
14 can --

15 MR. THOMSEN: I'm done.

16 COMMISSIONER ABERNATHY: Okay, let's move on then
17 to Jeff Glover, who's with the Independent Telephone and
18 Telecommunications Alliance. Thank you, Mr. Glover.

19 MR. GLOVER: Good afternoon. My name is Jeff
20 Glover. I'm vice president of External Relations for
21 Century Tel.

22 I appreciate the opportunity to appear before you
23 today on behalf of the Independent Telephone and
24 Telecommunications Alliance, otherwise known as ITTA. ITTA
25 is a group of 13 midsize ILECs providing service to more

1 than 10 million customers in 40 states.

2 It appears to us that in the debate over
3 telecommunications policy, the consumer is often overlooked.

4 But the Act puts the consumer first. Especially in smaller
5 markets where the economics are more fragile, consumers are
6 more vulnerable and universal service is, therefore, at
7 greater risk when change is introduced.

8 In the ETC designation process, section 214(e)
9 distinguishes between urban and rural markets. The
10 designation of CETCs was made discretionary, not automatic
11 in rural areas. The Act requires an analysis of the impact
12 of any such designation and an affirmative finding that such
13 designation would serve the public interest.

14 In many instances the rural service area is
15 redefined at the request of the CETC. But this requires a
16 public interest finding, not just by the state, but also by
17 the FCC. And these decisions should focus on preventing
18 service disruptions and maintaining affordable service in
19 rural markets.

20 The interest of rural consumers are not being
21 served by the current rules. Wireless ETCs are being
22 designated in some states without regard to the impact on
23 local markets. And without being required to offer service
24 to the entire market or offer a minimum level of service
25 such as unlimited local dialing or enhanced 911 capability.

1 At the same time, they are receiving support at the same
2 per-line level as the ILEC, the carrier of last resort for
3 the entire study area.

4 The consumer is the one who will inevitably pay
5 for the inefficiencies of the current system.

6 ILECs will not be able to sustain infrastructure
7 investment and an environment where the CETCs get the same
8 support the ILECs receive without any of the obligations the
9 ILECs have undertaken. Meanwhile, CMRS carriers have only
10 to submit their existing customer list and receive support
11 without doing anything whatsoever to enhance service to
12 consumers. Where is the consumer going to fit in this?

13 In my written testimony, I describe a number of
14 flaws with the current designation process. Designations
15 are based on inconsistent criteria. Too often, the only
16 rationale offered is to promote competition.

17 Sometimes no discernable justification is offered
18 at all, and this is particularly the case when you've
19 already had an ETC approved and multiple ETCs follow as a
20 result. But this is not enough for rural markets. The Act
21 requires more. Our consumers require more and deserve more.

22 My written testimony lists a handful of specific
23 criteria that can be applied by the states as a minimum
24 standard to ensure that competitive entry will help rather
25 than hurt rural customers. Uniform national rules make it

1 easier for everyone to help ensure that high-cost support is
2 being used to further the goal of providing universal
3 service to all customers in rural areas. After all, it is
4 the customer who pays the price tag for universal service.

5 I urge you to recommend that the FCC articulate a
6 set of clear standards for deciding whether designating an
7 ETC would serve the public interest and provide a meaningful
8 enhancement to universal service for consumers. These
9 uniform national standard could then be consistently applied
10 by the states and enforced by the FCC to put CETCs and
11 incumbent LECs on a more neutral footing.

12 The designation process is so very urgently in
13 need of repair, that I suggest that you make this a priority
14 even over the other important issues that you are weighing
15 in this proceeding. The CETC designation process is one
16 that needs immediate attention. And solutions can be
17 achieved through relatively simple reforms. You have a
18 unique opportunity here to make needful changes to the
19 benefit of consumers.

20 I appreciate the opportunity to be here, and I
21 look forward to answering your questions.

22 COMMISSIONER ABERNATHY: Thank you, Mr. Glover.
23 Now we'll move on to John Metts, who's with the National
24 Telecommunications Cooperative Association. And thanks for
25 coming.

1 MR. METTS: Thank you. My name is John Metts and
2 I'm president of the National Telecommunications Cooperative
3 Association, NTCA. I'm also Chief Executive Officer of
4 Penasco Valley Telecommunications in Artesia, New Mexico. I
5 appreciate very much the opportunity to appear before you
6 today to discuss eligible telecommunication carrier
7 designations.

8 As a point of interest, NTCA represents more than
9 560 commercial and cooperative telecommunications companies.

10 The purpose of my testimony is to assist the joint board in
11 developing a public interest test for determining whether a
12 carrier should be designated an eligible telecommunication
13 carrier in a rural telephone company service area.

14 The goal of universal service is to provide
15 consumers with access to the nine supported services listed
16 in the definition of universal service. Congress included
17 no requirement that universal service support mechanisms
18 should be used to promote and finance competition.

19 What I'd like to do now is outline the seven
20 point public interest test that NTCA proposes for
21 designating ETCs in rural telephone service areas.

22 Point number one. Is the additional ETC
23 designation required to ensure that consumers living in the
24 rural ILEC service area have access to the nine supported
25 services listed in the definition of universal service?

1 Point number two. Would the carrier requesting
2 ETC designation be able to provide service to the entire
3 rural ILEC service territory?

4 Point number three. Do the potential benefits to
5 the rural service area, if any, of granting the ETC
6 designation outweigh the ultimate burdens on consumers that
7 will occur through the added growth in the federal and/or
8 state universal service funds?

9 Point number four. Is the carrier requesting
10 designation willing to demonstrate its costs to provide
11 universal service to consumers living in the rural ILECs
12 service territory?

13 Point number five. Would the ETC designation
14 result in excessive support to the requesting carrier based
15 on the amount of support distributed under the identical
16 support rule?

17 Point number six. If the carrier seeking ETC
18 designation is already offering rural customers universal
19 service at a rate at or below or slightly above the
20 comparable rate for supported services, then why is the
21 requesting carrier seeking universal service support dollars
22 when its rates are already comparable without support?

23 And point number seven. Is the carrier
24 requesting ETC designation willing to adhere to quality of
25 service guidelines or other state specific requirements?

1 NTCA recommends that the joint board embrace this
2 seven point public interest test and recommend its adoption
3 by the FCC and state commissions. This change is needed to
4 preserve universal service over the long term. There's an
5 obvious need to act soon.

6 In view of these facts, NTCA recommends that the
7 Commission and the states stay all ETC designation
8 proceedings until this joint board and the FCC adopt new
9 guidelines for determining the public interest in rural
10 telephone service areas.

11 I thank you for the opportunity to present our
12 recommendations.

13 COMMISSIONER ABERNATHY: Thank you very much.
14 And the last person on the panel, Mike Strand with the
15 Montana Universal Service Task Force. And we appreciate you
16 coming today. Thank you.

17 MR. STRAND: Thank you and good afternoon.
18 Again, for the record my name is Mike Strand. I'm counsel
19 for Montana Universal Service Task Force, or MUST.

20 I understand the purpose of this particular panel
21 is to focus on three issues. The first of these issues is
22 whether the FCC should adopt guidelines for state public
23 interest determinations. My response to this issue is that
24 the FCC should not adopt guidelines if the FCCs historic
25 position on the threshold requirements for ETC designation

1 is going to be embodied in those guidelines.

2 The FCC is on record stating that mere compliance
3 with the provisions of section 214(e)(1) of the Act is per
4 se in the public interest in cases involving non-rural
5 telephone company service areas. Section 214(e)(1) simply
6 requires a CETC applicant to offer the nine supported
7 services identified by the FCC throughout the service area
8 at issue.

9 However, the FCC's South Dakota declaratory
10 ruling states that CETCs do not even have to show that they
11 can provide service throughout the service area as a
12 prerequisite to designation. Therefore, the current public
13 interest guidelines from the FCC are that ETC applicants
14 need only provide the nine supported service to some portion
15 of the study area at issue.

16 If this is the standard that the FCC would
17 utilize in public interest guidelines for the states, then
18 MUST could not support such guidelines. If the guidelines
19 have real teeth, we might decide otherwise. In particular,
20 we believe that insufficient weight has been given to the
21 universal service principles laid out by Congress in section
22 2549b).

23 Not only have regulators been unusually selective
24 in picking and choosing from among the universal service
25 principle identified by Congress, they have also created new

1 universal service principles such as competitive neutrality
2 and using universal service funding to promote competition
3 in rural areas.

4 We at MUST can see no language in the universal
5 service provisions of the Act that would indicate that
6 Congress intended the use of the universal service fund in
7 this matter.

8 The second issue asked the panel to identify the
9 appropriate content and scope of the public interest
10 determination required under sections 214(e)(2) and
11 214(e)(6). Over the past 100 years, the United States has
12 developed the finest wire line telecommunications network in
13 the world and with the assistance of the REA loan program
14 and the universal service fund, this statement includes
15 rural America.

16 We at MUST do not believe that Congress wanted to
17 diminish the level of universal service from rural areas,
18 but rather maintain that level and improve upon it over
19 time.

20 That is why Congress very clearly stated that
21 universal service is to be preserved and advanced. Congress
22 also specified that the preservation and advancement of
23 universal service was to be based on very clearly delineated
24 principles set forth in section 254(b).

25 To be sure that the existing level of service in

1 rural areas was not degraded, Congress specifically required
2 a finding that additional ETC designations be in the public
3 interest in areas served by rural telephone companies.

4 The appropriate scope of the public interest
5 determination in ETC designations is therefore to first
6 ensure that the existing quality of telecommunication
7 services in rural areas is preserved. And second, that such
8 designation is consistent with all of the principles
9 enumerated by Congress in section 254(b) of the Act.

10 Unfortunately, our view is that the actions of
11 many regulatory bodies to date have, for the most part,
12 jeopardized universal service in rural America. These
13 regulatory entities have eviscerated the requirement that
14 CETCs provide service across an entire study area thereby
15 encouraging cream skimming.

16 They have ignored key universal service
17 principles identified by Congress such as the principle that
18 advance telecommunications and information services are to
19 be available to all areas of the nation.

20 They have endangered the current level of
21 telecommunications services in rural areas by defining
22 universal service as a paltry list of nine services without
23 any reference to the quality standards by which those
24 services are to be delivered, or the quality by which they
25 were delivered at the time of the Act's passage.

1 This definitional problem is then exacerbated by
2 providing universal service funds to competitors based on
3 the incumbent's costs erroneously assuming that the
4 competitor's level of service is fungible without provided
5 by the incumbent.

6 MUST believes that the most egregious effect of
7 these misguided policies has been the wholesale ETC
8 designation of wireless carriers that, in many cases,
9 provide an inferior level of service when compared to
10 services provided by wire line incumbents.

11 The third issue for this panel was whether
12 regulatory parity should be a guiding principle. Again, we
13 at MUST refer back to the public interest. The public
14 interest cannot be served if regulators do not have the same
15 information from CETCs for the purposes of designation and
16 certification as they are able to obtain from incumbent
17 ETCs.

18 Further, the regulatory burden for incumbents
19 causes very significant compliance costs. These costs are
20 included in the cost base from which distributions are made
21 from the universal service fund to incumbent ETCs. Since
22 funding is currently portable to competitors based on the
23 incumbent's costs, the recovery of regulatory costs is a
24 windfall for CETCs that do not bear these burdens.

25 The same is true for the provision of equal

1 access, which, contrary to the assertions of some of our
2 competitors, is a significant honorable cost to incumbents
3 creating yet another windfall for out competitors.

4 Therefore, the answer is yes, regulatory parity
5 should be a guiding principle, but the level of regulation
6 should be sufficient to ensure that the quality of universal
7 service is preserved at the level it existed as of the
8 passage of the Act, and then advanced in a manner consistent
9 with the universal service principles specifically set up
10 for by Congress in section 254(b).

11 Thank you and I'll be happy to answer questions.

12 COMMISSIONER ABERNATHY: Okay. Thank you very
13 much. And we'll now start the question and answer
14 session -- part of this session -- and we'll start down to
15 my left with Commissioner Adelstein.

16 COMMISSIONER ADELSTEIN: Thank you. And thank
17 you for being here all of the panelist. I have a couple of
18 questions. Let me start with -- you mentioned, Mr. Strand,
19 cream skimming and it's -- to the extent that it would occur
20 under a designating an ETC -- would be devastating for the
21 incumbent, it wouldn't be good for universal service for
22 whole service area.

23 I'm curious -- from all of you -- and
24 Commissioner Smith, you mentioned some things that I was
25 doing to prevent that -- what everybody's perspective is on

1 how both the FCC and state commissions can make an effort to
2 prevent that and making ETC designations, ensuring that they
3 aren't designated for areas that are essentially cream
4 skimming.

5 MR. STRAND: Well, since I brought the issue up,
6 I guess there are three things that I would say. Number
7 one, the FCC could withdraw its South Dakota declaratory
8 ruling, which would be the easiest way of solving the
9 problem. The Telecommunications Act very specifically says
10 that service must be provided throughout the study area, it
11 does not say, at some point in the future.

12 If you're not going to withdraw the South Dakota
13 declaratory ruling, then at least there must be some time
14 frame within which the build-out must occur and some penalty
15 for failing to meet that time frame. Currently, in the
16 South Dakota declaratory ruling, a CETC has essentially
17 forever to get to the point where they actually provide
18 service across the study area. And there's no penalty if
19 they ever fail -- if they fail to ever -- serve the entire
20 study area.

21 MR. THOMSEN: I'd like to rebut that just a
22 little bit here. The -- currently the wireless companies
23 throughout rural America -- and in particular I know very
24 much Montana because we own every license on the A side in
25 Montana and have been providing service there since 1992 --

1 we currently provide service to tens of thousands of
2 customers that do not have wire line service, that have
3 requested wire line service and have been told by the
4 wireless incumbents that they will provide that service if
5 you pay six, eight, ten, fifteen thousand dollars.

6 The rural telcos do not provide ubiquitous
7 service. They do not provide service to all people who want
8 service in their study areas. And they certainly provide
9 the opportunity, but it is -- the provision does not say you
10 will provide it unless you charge a certain amount of money
11 to put that money in and then you get that money back from
12 the universal service.

13 We currently provide significantly better
14 coverage throughout most of the states in which we provide
15 service, than the rural telcos do, just by the very fact
16 that we add a dimension, we add mobility, we are not stuck
17 to a single wire line that goes in a straight line and makes
18 curves in one place or another. We provide service where
19 consumers want to use it, not just in the places that the
20 telephone companies decide to provide it.

21 COMMISSIONER ADELSTEIN: Just a follow-up to
22 that: Mobility is clearly an advantage, but are you saying
23 that you provide more ubiquitous service, or you provide
24 service -- than the rural ILECs in the same community --
25 that your service is more comprehensive?

1 MR. THOMSEN: We provide significantly more
2 coverage than the ILECs do in the markets in which we
3 provide service, and in the markets for which we've applied
4 for universal service.

5 COMMISSIONER ADELSTEIN: By that you mean more
6 customers are covered by your system than by the rural
7 ILECs, assuming those areas that you are providing
8 service -- more --

9 MR. THOMSEN: In the areas that we're providing
10 service? Absolutely.

11 MR. STRAND: If I can reply to that comment.
12 It's one of the most ludicrous comments I think I've ever
13 heard. They clearly do not cover more areas than the rural
14 telephone companies and it's absurd for them to make that
15 representation.

16 They actually filed ETC application for the
17 entire State of Montana three years ago. The only evidence
18 of their coverage area was an eight and a half by eleven
19 piece of paper that took the outline of the State of Montana
20 and completely blocked it in with a black marker indicating
21 that they had service to every square inch of Montana.

22 Ultimately, they withdrew that application
23 because they got so many data requests, and rather than
24 respond to them, they withdrew their application. They have
25 now refiled, but just for the Qwest non-rural service areas.

1 And in their refiling, they're claiming that they
2 can only reach 85 percent of the customers in the Qwest
3 areas, which are the larger communities in Montana, which
4 makes one wonder what happened over the past three years?

5 Did they actually remove towers from some of the
6 more urban areas of the state so they could get down to 85
7 percent from the ubiquitous coverage they claimed three
8 years ago?

9 MR. THOMSEN: I believe the word would be
10 disingenuous and mis-speaking.

11 COMMISSIONER ABERNATHY: Do you want to respond
12 to that?

13 MR. SMITH: I feel like I'm back at the board
14 here. You are seeing the two different ends of the
15 perspective that we're certainly faced with. Particularly
16 in our market in Iowa with the 150-plus ILECs that I think
17 would take issue, or at least make comment on the fact that
18 they do a pretty good job of serving their exchange areas
19 and they often challenge the wireless providers to offer the
20 same.

21 I think fairly well known that the Iowa Utilities
22 Board demands universal or full coverage the service area.
23 We will not authorize a kind of a pick and choose coverage
24 application, so we're sensitive to the cream skimming.

25 We're also sensitive to the new technologies that

1 are coming forward with the wireless. It's not an apples to
2 apples comparison, and we're constantly struggling with how
3 do we afford ETC status and yet we can't wind up the
4 exchanges or the boundaries exactly, which I touched on in
5 my comment.

6 So that's been the genesis for our current rules,
7 making progress where we're trying to decide if -- and we're
8 taking comments right now from the industry on whether
9 wireless service areas should be less than the wire line
10 incumbent's historical service area.

11 Just initially we think this will possibly help
12 maximize the use of wireless services in giving these local
13 rural folks more service choices, so.

14 COMMISSIONER ADELSTEIN: Well, just one quick
15 follow-up. What do you do to enforce that? I mean, there's
16 a dispute here about what the coverage area is. I mean,
17 sometimes when I go home, you find a lot of patches
18 sometimes in wireless service areas, and it's hard to deny
19 that, and certainly even in urban areas you find these
20 things.

21 What do you do to enforce the requirement that
22 they be serving everybody in that service area, and where --
23 any suggestions as to how you can enforce that? What should
24 be done more by the FCC or by state commissions to do that?

25 MR. GLOVER: Could I respond to that question?

1 CenturyTel used to be in the wireless business. Up to a
2 year ago, we sold our wireless business. It's a frequent
3 thing that you drop through your networks, you have these
4 nice trucks with all these antennas on them, you frequently
5 test the quality of your coverage, and so you pretty much
6 know where your weak spots are and where your strong points
7 are.

8 And so I would submit that, as recently even as
9 the last month or so, you can see various reports that came
10 out from the United States General Accounting Office that
11 raised questions about the call quality, CMRS providers, it
12 talked about lack of coverage, limited network capacity,
13 dropped calls, poor sound quality.

14 And the report estimated that 22 percent of the
15 users were unable to successfully complete 10 percent or
16 more of their calls as a result of calls being dropped. And
17 even as recently as this second quarter, the wireless
18 industry has been fighting publishing service quality
19 standards.

20 When any incumbent would have to submit those on
21 a regular basis and have a what we call down south a come to
22 Jesus meeting if we had a problem with the Commission, I
23 think it would be appropriate, particularly for wireless
24 ETCs, that are receiving monies -- regulated monies -- to
25 publish their coverage, their service quality and so forth

1 and the various strength.

2 And I think they'll probably have it identified
3 by zones. They ought to be very strong in the urban areas
4 and it'll get weaker out at the rural areas until you hit a
5 new cell socket. So I think there are definitely practices
6 out there that could be implemented. It's just a matter of
7 putting them into place.

8 MR. SMITH: If I might for just a second -- I'm
9 sorry. Our -- at least my experience -- which is, you know,
10 in the life history of the board is certainly limited -- but
11 we haven't been concerned so much with the exchange coverage
12 as making sure people understand the difference between the
13 service they're being provided because there's a great mis-
14 education out amongst certain areas of our state that
15 dropping wire line and picking up wireless gives you the
16 exact same coverage, and they all think they're getting 911
17 service -- equal 911 service -- that -- things of that
18 nature.

19 Through various rate cases recently, the call --
20 the cry -- has been when the wire line wants to increase
21 their rates, well let's just all go wireless and that's
22 going to serve our -- solve our -- problems.

23 So the cream skimming isn't so much an issue in
24 Iowa, it's just making sure that the companies that are
25 competing for ETC status are offering comparable and

1 reasonable service to the local rural folks.

2 MR. STRAND: I think that quality issue is really
3 a key one. In fact, it's evident from the wireless
4 carriers' national advertising. They as much as admit that
5 their service quality is inferior. What -- Verizon
6 wireless' advertisement show a man saying over and over
7 again, Can you hear me now? Good. Can you hear me now?
8 Good. Can you hear me now?

9 Such an advertisement would never work for a wire
10 line telephone company because, of course, you can hear me
11 now on a wire line network. Everybody takes that for
12 granted. The only question from a wire line perspective is
13 whether you can hear a pin drop, not whether you can hear
14 me.

15 And then, of course, the Sprint wireless
16 advertisements that discuss how poor the service quality is
17 of their wireless competitors by showing amusing situations
18 such as the mother calling home and telling the sitter to
19 shower the children, she thought she heard flour the
20 children, so she comes home and finds these children dipped
21 in baking flour.

22 And that's what I think of the audacity of the
23 wireless industry, is something you cannot fault them on.
24 They take their Achilles heel, their inferior service
25 quality, and they put it right out in front and try to

1 address in multimillion dollar advertising campaigns.

2 COMMISSIONER ABERNATHY: Although -- I guess my
3 follow-up question would be, fine, if they're not getting
4 support. Right? I mean, if they're out there competing --
5 and it's an alternative service and they're not getting
6 subsidized -- it's a competitive environment, you either
7 find that the price point is right and you value mobility or
8 you don't.

9 The question for me really is, when a company
10 likes Western Wireless goes in to an area and says they want
11 ETC status, at that point is there a greater commitment? Is
12 there a greater obligation to resolve some these holes in
13 the network -- which admittedly all the carriers admit that
14 they exist, and they do -- I still have a wireless phone
15 because I like having it.

16 But how do you balance what was inherently
17 considered a, you know, a discretionary kind of service that
18 you either valued or didn't value versus when you go in an
19 seek ETC status? What are the differing obligations there?
20 What should the different obligations be?

21 MR. THOMSEN: We began making application, as I
22 mentioned, in 1998. At that time we had, on average,
23 about -- our customers used about 125 minutes of use per
24 customer per month. Today, five years later, that's 450
25 minutes of use per month.

1 The consumers are speaking with their feet and
2 with their vocal cords. They are using our product and they
3 are using our product in many cases as their primary
4 telecommunications device.

5 We did a survey of our -- of the customers we
6 have in the rural markets. We found that 30 percent of them
7 considered their wireless phone as their primary
8 telecommunications device. The number of phones with the
9 ILECs has been dropping. The number of phones with the
10 wireless carriers has been growing.

11 The comment that my friend at MUST made about the
12 advertisements that the cellular carriers make is a case in
13 point. The guy is walking down the street saying, Can you
14 hear me now? Can you hear me now? When was the last time
15 you saw a guy with a wire line phone walking down the street
16 saying, Can you hear me now? Can you hear me now? Of
17 course, you can't.

18 COMMISSIONER ABERNATHY: But that's not really
19 going -- the question that I have is, when you move from
20 competing in the wireless world -- no subsidy support,
21 you're just out there duking it out with the other wireless
22 providers, and, frankly, no service quality requirements and
23 very light touch regulation -- when you move into the ETC
24 world, and you're qualifying for support, do you view that
25 as requiring a different level of service or a different

1 type of build-out than what you would otherwise do?

2 MR. THOMSEN: We believe that, as my incumbents
3 earlier suggested, that, in fact, we have started doing
4 that. And that the consumers have responded to that by the
5 fact that they're now using four times as many minutes on
6 our system as they were on average five years ago when we
7 made our first applications.

8 We have built out significantly more parts of
9 rural America in the last five years, than we had built out
10 before. We have upgraded our systems to add capacity to
11 handle that number of calls. We've added digital, which has
12 allowed us to handle more calls and bring in new advanced
13 services, in some case, advanced services that the wire line
14 carriers cannot match.

15 And the most important point is, we're providing
16 the service where customers want it, not just where the
17 telephone company wants to provide it.

18 COMMISSIONER ROWE: I'm -- I'd like to follow up
19 question, but I don't want to lose my place in the queue for
20 my real question.

21 COMMISSIONER ABERNATHY: Depends on how many sub-
22 parts there are to the follow-up question.

23 COMMISSIONER ROWE: I'm going to make probably a
24 futile attempt to find some points in agreement between Mr.
25 Thomsen and Mr. Strand, so I hope you'll watch my back. Mr.

1 Thomsen, I heard you at the start to say that there were, in
2 fact, thousands -- or you know, you said tens of
3 thousands -- of lines unserved. Mr. Strand took strong
4 exception to that.

5 I wonder if the two of you would agree on the
6 following statement. In fact, there are -- specifically in
7 Montana -- substantial numbers of customers to whom
8 facilities are not deployed.

9 In the joint board review of covered services I
10 raised the issue of support for transport services as being
11 relevant to that, and at that point we attempted to identify
12 who, in fact, those customers were.

13 Generally, my conclusion was, that those were not
14 customers, but potential customers, living in mountainous
15 areas, generally in areas served by the tier one companies.

16 I was struck by the number tens of thousands, I assume
17 you're talking about a much larger than just Montana or
18 Maine or Vermont.

19 Conversely, the discussion of unserved customers
20 in areas served by a, for example, the MITS Companies, pro
21 agency and others, tends to be a question not of facilities
22 deployed -- the facilities are typically excellent, in fact,
23 DSL and above -- but is a question of customers who are
24 eligible who have facilities available, but who do not take
25 service. And there the strategies to reach those customers

1 have to do more with outreach, lifeline link up type issues.

2 Is that a fair summary of the state of the
3 network, first of all, and the state of customers
4 participating in services?

5 MR. STRAND: From our perspective, I think you
6 identified correctly that the tier one carrier, the Bell
7 operating company in Montana is the service area that
8 primarily has the customers that are not getting service and
9 they are the ones that typically have the high aid to
10 construction charges. There's no conceivable way that it's
11 anywhere near ten thousand in Montana, even with the
12 problems that the Bell company has.

13 COMMISSIONER ROWE: And my comment actually
14 wasn't even focused on Montana there, but more broadly.

15 MR. STRAND: Right.

16 COMMISSIONER ROWE: Would you agree or disagree
17 with that?

18 MR. THOMSEN: I would generally agree with your
19 characterization, although, you know, as a good example, and
20 I think there are probably examples like this in Montana,
21 but I can only speak specifically to the experience we've
22 had on the Pine Ridge Indian Reservation, where we went in
23 and went to the FCC and asked for ETC designation and at
24 that hearing, the incumbent telephone carrier claimed that
25 everybody who wanted a phone had a phone on the reservation,

1 and that, in fact, if we were designated an ETC, they would
2 go out of business.

3 We were designated an ETC, we then added three
4 new cell sites to the Indian reservation, and we now have
5 raised the number of household receiving phone -- receiving
6 basic phone service -- from 25 percent that were there
7 before we came in, to 75 percent -- added 5,000 new
8 households who got their first telephone service.

9 And that's on one Indian reservation in the
10 corner of one state. There are other examples of that in
11 other places. And these are not places that are, you know,
12 these are not people that have a particularly large voice,
13 these are not people that are particularly looked at very
14 often.

15 They are, in fact, overlooked frequently by
16 commissions and by telephone companies. And they are the
17 people that are starting to receive basic telephone service
18 from wireless carriers, for the first time ever.

19 COMMISSIONER ADELSTEIN: If I could follow up.
20 That's my home state there. It just amazes me that you
21 would say there was only 25 percent penetration. I'd never
22 seen how I desperately tried to find the numbers on the Pine
23 Ridge Reservation as to what the penetration levels were.

24 I never heard anybody allege 25 percent. I've
25 heard allegations of, you know, maybe 50, 60, but even that

1 was disputed by the incumbent, and I never found good
2 evidence of it. What is the basis for that allegation?

3 MR. THOMSEN: My understanding is that there are
4 about 2500 lines to households that Golden West was
5 providing service to on the reservation. We are now
6 providing an additional 5,000 lines of service on the
7 reservation to households that did not have service before.

8 COMMISSIONER ADELSTEIN: So you say you're
9 offering twice as many lines now as Golden West in Pine
10 Ridge?

11 MR. THOMSEN: Yes, sir.

12 COMMISSIONER ADELSTEIN: I'll -- we'll discuss
13 that further. I'd like to see the documentation to that.

14 MR. THOMSEN: Okay.

15 MR. STRAND: Just as an extra point,
16 Commissioner, when Western Wireless applied for ETC
17 designation, the Crow Indian Reservation, which is one of my
18 clients, they allege that there was only 45 percent
19 penetration. The 2000 census just came out some time ago,
20 and indicated that the number was 87.5 percent penetration.

21 We purchased the exchanges on the Crow
22 Reservation from the Bell Company in 1994. Western Wireless
23 was using 1990 census data and was unwilling to even discuss
24 with us the possibility that we had improved service on the
25 reservation after we purchased the exchange.

1 COMMISSIONER ROWE: To close out --

2 MR. THOMSEN: We're getting our numbers from the
3 reservations themselves, so I can only go on that.

4 COMMISSIONER ROWE: I think it's worth noting
5 that probably most of the people in the room, including all
6 the panelists, everyone up here are deeply committed and
7 they're doing a great deal to promote access and deployment
8 on American Indian Reservations, and that's commendable
9 regardless of who's doing it.

10 COMMISSIONER ABERNATHY: Is it your turn?

11 COMMISSIONER ROWE: Thank you. I cheated, didn't
12 I?

13 COMMISSIONER ABERNATHY: You did, but it's all
14 right.

15 COMMISSIONER ROWE: Back to the question at the
16 start. I'd like to hear from each of the panelists going
17 down very quickly. What, if anything, should the joint
18 board -- what approach should be taken -- federal standards
19 on issues such as the ones that Commissioner Boyle raised,
20 federal guidelines, or should the FCC ultimately be quiet so
21 who should make the decisions and house sweeping?

22 And then secondly, what specifically should be
23 included in any service standards or at a public test. And
24 if you could just move through very, very quickly. Give us
25 your list without too much editorializing.

1 MS. BOYLE: I think I addressed that. I said I
2 was reluctant to -- for the FCC to decide that there would
3 be any guidelines, and if they would, that they would be --
4 we would be able to construe them rather broadly.

5 COMMISSIONER ABERNATHY: That includes guidelines
6 as opposed to mandates. You would even want guidelines from
7 the federal level?

8 MS. BOYLE: If they were always construed as only
9 guidelines. I find in hearings that, well oftentimes we are
10 told the guidelines are what are actually -- they construe
11 them as mandates. Puts us in a position of conflict.

12 And so, at any rate, I think the Act fairly well
13 tells us what is expected. I think common sense continues
14 to the tell us what public interest is and, as I said
15 earlier -- I think I was talking too long, though -- that
16 our environment changes, our economic environment changes.

17 If you would have said several years ago what our
18 public interest in this country, it would be much different
19 than it is today after 911. So those things need to be
20 always considered when you start telling us how to talk --
21 you know, what guidelines to follow.

22 When we talked about parity, it is hard for me to
23 understand why we should not require all companies to follow
24 the same service quality standards. I know the equal access
25 is very controversial, however, if you are going to pay a

1 company the same rate as you pay a land line, and they're
2 not requiring equal access, we all know that they get a
3 discount because they buy long distance in buckets.
4 Therefore, it seems unfair for us to ask for anything less.

5 MR. SMITH: And I think the Iowa board would
6 generally agree with the comments of Chairman -- Chairwoman
7 Boyle. In Nebraska there, we -- I mentioned in my opening
8 comments about universal service quality standards, that it
9 would be very difficult to employ nationwide service
10 standard requirements.

11 However, getting some sort of measurements on a
12 state by state basis -- each state has different
13 characteristics, certainly, and it's maybe not such a bad
14 consideration to look at applying standards uniformly within
15 a state. But, again, that -- looking at mandates, I think
16 most states would prefer to have a little leniency there in
17 evaluating their own particular phone markets.

18 And in terms of minimum services, I think we're
19 comfortable where the list is now. We might suggest
20 considering things such E911, however, just because with the
21 popularity and prevalency of wireless phone service out
22 there.

23 If people are, in fact, dropping their primary
24 lines and using only wireless service as their point of
25 contact with the world in telecommunications, then having

1 the ability to access emergency systems is very important.
2 And we -- that's a top for our board.

3 MR. THOMSEN: I would say, in general, we think
4 that the state commissions are doing a very good job of
5 interpreting the Telecommunications Act. As you've seen
6 from the comments from this panel, sometimes reading the
7 Telecommunications Act is like reading the Bible, you can
8 get it to say anything you want it to.

9 But the -- I think that the state commissioners
10 and the state commissions are in touch with their states
11 much more so than the FCC is, and that they know what serves
12 the public interest of their citizens better than someone
13 from Washington D.C. possibly does. And that, in general,
14 the FCC should be hands off on how they interpret what the
15 '96 Telecommunications Act to have said.

16 I will say that there are a number of things that
17 are required by -- required of -- incumbent telcos that were
18 put in place because they were basically in a monopoly type
19 situation, and those are things that were put in place to
20 protect the consumers from a monopolies using their powers
21 to do things that would be at a consumer.

22 Many of the those things are not particularly
23 applicable to a competitive carrier because, in fact, their
24 introducing competition, and once competition comes in, the
25 monopoly goes away, and there are things that may well need

1 to go away from the requirements that the ILECs have down
2 the road as competition continues to grow in these rural
3 markets.

4 MR. GLOVER: From ITTA's perspective, there are a
5 couple of clear reasons why we need standards. Number one,
6 we need standards to protect the consumer because the
7 consumer is footing the bill for these additional entrants
8 into the marketplace.

9 Number two, the lack of consistency between the
10 states with regard to ETC designations makes it very
11 difficult from a business planning standpoint. So, from an
12 industry standpoint, we need consistent standards so we can
13 understand as we predict and make capital investment.

14 With regard to our immediacy of the issue, we
15 would very much like for this board to make specific
16 recommendations on the standards because the flood gates of
17 ETC requests have opened, and there's a gold rush caught
18 mentality that's on with regard to people trying to seek
19 this kind of support.

20 With regard to the specific things that we
21 advocate, first of all, we'd like for the FCC to develop
22 rules that specify that competition itself is not sufficient
23 justification for an ETC/CETC designation. We would also
24 like for the states to explain to us when they find that
25 public -- an affirmation in terms of the public interest

1 test, what that public interest finding was.

2 Second, the rules should promote consumer benefit
3 and regulatory parity. To us that means comparable services
4 for comparable support. Today we have similar support for
5 providing dissimilar service. Specifically, we need to have
6 carrier of last resort obligations, obligations to provide
7 an unlimited basic local calling plan on the same terms as
8 the ILEC, a requirement to offer service throughout the same
9 service territory as the ILEC, comparable customer service
10 standards and reporting requirements so that commissions can
11 monitor how this money is being used, and the quality of
12 service the consumers are receiving.

13 They also should have equal access obligations.
14 And as an outgrowth of this, the joint board should
15 recommend specific enforcement measures that enable the FCC
16 and USAC to verify the support is being used by the CETCs in
17 the purpose that was intended as required by section 254(e)
18 of the Act. And carriers who do not invest in the network
19 infrastructure, should not be permitted to take support away
20 from carriers who do.

21 And, ultimately, I think if we had those types of
22 standards, that we will find that the consumer benefit can
23 be justified and closely examined.

24 MR. METTS: I guess I would say I have mixed
25 emotions in this regard. I think there is a place for

1 standards. We heard here said that the states are doing a
2 good job. I think some states are, I don't know that all
3 states are, especially in the area of the commitment to --
4 for the ETC to serve the entire service area.

5 My company serves 4600 square miles in
6 southeastern New Mexico. And we have 2800 customers in that
7 area. We regularly, on a regular basis, spend several
8 thousand dollars to provide service to one customer, and I
9 do not see a lot of ETCs hopping in line to go out and get
10 that customer ahead of us. They don't have to, and they
11 probably won't.

12 MR. STRAND: I'm in a schizophrenic situation as
13 well, because the Montana commission has already endorsed
14 and, on the record, supported a number of the service
15 quality standards that we have proposed through MUST.

16 If federal guidelines -- so we wouldn't want to
17 see federal guidelines that would be more vanilla, I
18 suppose, than what are state commissioners are already
19 taking a look at -- but if federal guidelines were
20 established, I think there's some common sense guidelines.

21 Number one is coverage area. It doesn't matter
22 whether you provide service if you can't reach the
23 customers. The other issue is congestion. If you're -- if
24 the signal cannot get through your network because there's
25 too much congestion, again, you can't to your customers,

1 that's a common sense type of thing.

2 Equal access should be required. If it's not
3 going to be required of ETCs, then it shouldn't be required
4 of incumbents. We should be able to simply pick those
5 customers to our own long distance provider.

6 And then I think a cost benefit analysis -- if
7 the companies in our areas are getting say 30 to 35 dollars
8 per month per line for universal service, how many more
9 companies are we going to give 30 to 35 dollars per month
10 per line to, and at what point, I mean, essentially service
11 is going to have to be free to the customer in order for
12 there to be a benefit that's equal to the cost to the
13 universal service fund.

14 The last set of guidelines would be in the area
15 of customer support. What has to appear in the billing,
16 truth in billing type things. And what do you do about
17 service outages.

18 On a last point that I guess I'd like to make is
19 that, I represent a number of companies in Montana, and I
20 also operate in North Dakota, Wyoming and Nevada. They've
21 all come to me and asked me, on behalf of their wireless
22 subsidiaries, at what point are they, as directors on a
23 board, in breach of their fiduciary duty by not applying for
24 ETC designation?

25 That puts me in a real tricky position. Now what

1 I tell them right now is that, at least in Montana, I feel
2 that the commission and commission's staff are sufficiently
3 aware of the need for stringent requirements that they
4 probably are not in breach.

5 But if a case went through the Montana commission
6 fairly easily without much in the way of guidelines, then I
7 would have to advise all of the wireless carriers in my
8 state to immediately apply for ETC or risk being in breach
9 of fiduciary duty to their company.

10 COMMISSIONER DUNLEAVY: Thank you, Madam
11 Chairman. I've listened very carefully to what you say and
12 several of you have indicated that you're looking for some
13 national standards. Maybe I'm particularly dense, but can
14 you be more specific? How can you have national standards
15 given all of the differences that exist from place to place,
16 okay?

17 Manhattan, Kansas is not Manhattan, New York.
18 Tell me how you establish a standard that applies in both
19 places? Anyone.

20 MR. STRAND: Well, I think a couple of them right
21 off the bat would be, in all cases, you have to have a
22 communications path from point A to point B. If you're
23 coverage doesn't reach the customers, the other customer at
24 the end of the line, then, you know, the fact that voice-
25 rate service is one of the nine supported services is

1 essentially meaningless if you can't complete a call.

2 So you have to have the coverage area. You can't
3 have such network congestion that you can't get a call from
4 point A to point B, because, again, it doesn't matter if you
5 offer voice-rate service if your network is so congested
6 that you can't get a call through the network.

7 So there's some commonsense ones right off the
8 bat.

9 COMMISSIONER DUNLEAVY: But are you suggesting,
10 Mr. Strand, that those are standard or those are guidelines
11 and these are -- these can be much broader than -- they
12 don't necessarily have to be specific. Is that what you're
13 suggesting?

14 MR. STRAND: Well, I think they can be specific.
15 For example, you could put in a standard that no more than
16 one in two hundred calls is blocked due to network
17 congestion, and that could be a numeric standard and can be
18 tested. You could do that, or you could do broader
19 guidelines.

20 As I've said, my inclination, based on where the
21 FCC has historically gone with this, is that they have a
22 affirmatively tried to get ETC designation to as many
23 competitors as possible, and have made them -- have set the
24 bar as low as they possibly can. So it's kind of hard for
25 me to support federal guidelines.

1 But if the FCC had a change in their philosophy,
2 and I think there are a number of very specific public
3 interest criteria that could be developed for each of the
4 existing services that are supported.

5 MR. GLOVER: Commissioner, I think ITTA is firmly
6 on the record here with regard to supporting national
7 standards. It's kind of like I tell my children, if you
8 don't have any standards, that could lead to very bad
9 things. And so having high standards are often good.

10 In businesses, I think that, at least a minimum
11 set of national standards that we've outlined here certainly
12 give a certain amount of direction for the states and
13 carriers. But beyond that, clearly the states will be free
14 to impose their own standards above the national standards
15 as they saw fit.

16 But at least a minimum set of criteria ought to
17 be established, because, after all, even incumbents today,
18 under the definitions of universal service, have standards
19 and requirements that we have to live up to.

20 COMMISSIONER ABERNATHY: And so you're talking
21 more about a minimum floor on this.

22 MR. GLOVER: Yes.

23 COMMISSIONER ABERNATHY: Which -- then the states
24 go from there and --

25 MR. GLOVER: Correct.

1 COMMISSIONER ABERNATHY: -- and build on it.

2 COMMISSIONER DUNLEAVY: And the states continue
3 to have the ability to build off that. That's the
4 minimum --

5 MR. GLOVER: Absolutely.

6 COMMISSIONER DUNLEAVY: -- that's the platform
7 and then the states could do whatever they want about them.

8 MR. GLOVER: Absolutely.

9 MR. THOMSEN: I think that if they are truly
10 minimal standards that every commission worth their salt is
11 going to have those in place anyway. I think that it is
12 belittling to the state commissions to impose a minimal set
13 of standards.

14 I'm thinking that they wouldn't use those as a
15 standard anyway. And it's certainly been my experience in
16 the hearings that we've had in the whole raft of
17 applications we've made going back five years. There isn't
18 a commission, at least in the markets in which we do
19 business, that doesn't have a very sound set of minimal
20 standards.

21 COMMISSIONER ADELSTEIN: Well, that would argue
22 for having more robust standards, then, I take it?

23 MR. THOMSEN: No, quite the contrary. I don't
24 believe in federal big brother.

25 MS. BOYLE: If I could respond, or at least

1 answer your question, Commissioner, and you did point out
2 the one area in Manhattan, Kansas where there is a lot of
3 open space as opposed to New York City where's there's not,
4 and I've heard the arguments of trying to get coverage in
5 areas where there are many, many tall buildings and you
6 can't even get the signal through.

7 Maybe that is why it has to be considered on a
8 state by state basis considering the topography of the
9 state. But there are other standards that land lines are
10 held to, for example, speed of answer. We all know that
11 we -- the story in today's USA Today did not address
12 wireless, but it did address land line, of all the billing
13 problems that people have had.

14 And part of the frustration that I hear from
15 people all the time is, they don't like getting into some
16 kind of a queued answer to try to get access to a human
17 being to solve problems. So there are areas where they will
18 not match because the technology is different.

19 On the land line side, we require a technician to
20 be at someone's home for repair in a certain amount of time,
21 while the reverse of that, on the wireless side, is the
22 customer takes the wireless phone to a service center and
23 they take care of it there. So those would not match, but
24 certainly there are areas where we could look and see where
25 they could be and try to offer equivalent service.

1 COMMISSIONER DUNLEAVY: Sort of like banking. If
2 you want to stand in line, or use the ATM so that we can
3 save some money on clerks. Thank you.

4 COMMISSIONER ABERNATHY: Okay, Commissioner
5 Thompson and I have decided to defer so we can make sure
6 Billy Jack gets some time, and then we'll sneak in some
7 questions, I'm sure, further on.

8 STATE CONSUMER ADVOCATE GREGG: Thank you. Now
9 for something completely different. Would you all agree
10 that one of the implicit underpinnings of section 214(e)(2)
11 of the Act is that there are certain areas in our nation
12 where it doesn't make any sense to have more than one
13 subsidized carrier, and that to a large extent, the whole
14 public interest exercise outlined in the Act is a
15 determination or an attempt to determine what those areas
16 are?

17 MR. STRAND: I would certainly agree with that.
18 In some of the more remote and extremely sparsely populated
19 areas of the country, it's very difficult to see how two
20 carriers could possibly survive. So we end up with, when
21 we're granting the same support to both the incumbent and
22 the ETC, it's just a race to see which -- because when they
23 put the other out of business, it'll seem like an awful
24 waste of limited funds to do that.

25 STATE CONSUMER ADVOCATE GREGG: Does anybody

1 disagree with that?

2 MR. THOMSEN: I don't think there's a place in
3 America that will not benefit from competition. We put a
4 cell site into a town in North Dakota called Regent, North
5 Dakota, and started competing directly with the incumbent
6 telco there.

7 They're about 100 people in Regent, North Dakota,
8 and the ILEC responded by turning off our service and when
9 the courts required that they turn it back on and charged
10 them a fee, they turned around and started providing better
11 service, a larger local calling area, and more advanced
12 services than they ever had before.

13 In fact, those people in Regent, North Dakota
14 benefited tremendously whether or not they ever used our
15 service by the introduction of competition. I have no idea
16 what the universal service funding aspect of that is, and in
17 fact, because the telephone company made the changes they
18 did, they held on to a significant portion of the customer
19 base that they had.

20 And, in fact, we don't have very many customers
21 in Regent, North Dakota right now, but the customers were
22 much better served as a result of the introduction of
23 competition.

24 I think that is the case every place across
25 America. And that's one of the keys of the universal

1 service, is the benefits of competition, the advantages that
2 the people who live in urban markets have should be
3 transferred to all citizens throughout America regardless of
4 where they live.

5 STATE CONSUMER ADVOCATE GREGG: So, Mr. Thomsen,
6 it is your position that there are no areas in the United
7 States where it would not be in the public interest to have
8 multiple subsidized carriers?

9 MR. THOMSEN: I have not found an area that we
10 serve that would not benefit from the introduction of
11 competitive services. And we serve some of the most rural
12 parts of the United States.

13 STATE CONSUMER ADVOCATE GREGG: The introduction
14 of competitive services is a different issue than the issue
15 of subsidized competition, and that was my question. Is
16 your answer still, yes, there is no area where it would not
17 be in the public interest?

18 MR. THOMSEN: It -- I --

19 STATE CONSUMER ADVOCATE GREGG: To
20 subsidize competition --

21 MR. THOMSEN: -- have not seen a place in America
22 where I believe it would not benefit the residents to have a
23 second carrier that is an ETC.

24 STATE CONSUMER ADVOCATE GREGG: And regardless of
25 the cost to the universal service fund and all the consumers

1 in the United States?

2 MR. THOMSEN: No, I disagree with that, because
3 I believe that, in fact in a lot of cases, wireless carriers
4 can provide service significantly less expensively than wire
5 line carriers can.

6 And that, in fact, if we are going to be looking
7 at this from the consumer standpoint throughout the United
8 States, we should look at providing ETC based on the lowest
9 cost provider rather than the highest cost provider or the
10 entrenched provider.

11 STATE CONSUMER ADVOCATE GREGG: How would you all
12 react to a guideline that established presumptive
13 benchmarks? Something along the lines of any area that
14 received \$30 per line per month or more in support, there
15 should be only one ETC. In areas that receive more than \$20
16 per line per month, but less than 30, there should be only
17 two ETCs. And in areas that receive support of \$20 per line
18 per month, or less, there should be no limit.

19 These would be presumptive benchmarks, which the
20 states could overcome by particular evidence about
21 particular areas and particular carriers. But it would be a
22 guideline to the states to at least start looking at what
23 are those areas where it may be too costly to serve and that
24 it is not in the public interest to support more than one
25 subsidized carrier.

1 Any reaction?

2 MR. STRAND: That seems like a possibility,
3 however, I would want to make sure that there were
4 protections in place to ensure that nobody is engaging in
5 what is termed gold plating so that they can reach the \$30
6 threshold.

7 Now that does exist, but in NECA today, they have
8 an auditing system where they come and audit the companies
9 that get universal service funding every three years to
10 ensure that their costs are appropriate and so forth. But
11 as long as that was the case, then that seems like a
12 possibility anyway.

13 STATE CONSUMER ADVOCATE GREGG: Mr. Metts?

14 MR. METTS: I agree.

15 MR. GLOVER: I think, from our standpoint, again,
16 if it were a guideline that can be utilized and then let's
17 say the funding fell down below -- say it was somewhere at
18 \$18 per line per month -- and then the commission found that
19 it was not in the public interest through a public interest
20 determination and that outweighed the standard, that they
21 should have the ability to decline opening that market up to
22 an ETC.

23 The real problem, one of the biggest standard
24 problems that you have today, is the fact that, as Mr.
25 Thomsen said, that they provide coverage where usage occurs.

1 You have a business, a wireless business, which is able to
2 monitor where the usage occurs by cell site. Look at your
3 bill, you can look at it and see just where your roaming
4 occurred, how much they charge you, yet they are compensated
5 based on billing address.

6 And so that is an issue, because a lot of the
7 usage could occur outside of the study area. So there are a
8 number of things here that need to be addressed before you
9 can determine what level of support they should actually
10 receive.

11 MR. THOMSEN: As was stated in the last panel,
12 however, I believe there's an awful lot more people who have
13 billing addresses in big cities and use the service in rural
14 markets.

15 We've seen that, with the introduction of one
16 rates from AT&T, a significant of our customers became AT&T
17 customers and became our roamers, and, in fact, had billing
18 addresses in cities. And I would say that it's much more
19 prevalent that way than the way that Jeff described it.

20 COMMISSIONER ABERNATHY: Let me do a follow-up to
21 what Billy Jack -- what you were saying, which tries to get
22 at the same issue, the cost benefit analysis, the cost of a
23 new competitor coming in versus the benefits of a new
24 competitor coming in.

25 If we didn't go with a tiered approach, one other

1 possible alternative that I think some of parties mentioned
2 was, placing some obligation on the state commissions to
3 actually take into account this balance, the cost versus the
4 benefits.

5 Is that possible, to put something like that into
6 place and, if so, how would the state even be able to get at
7 that? I think -- and you kind of mentioned that a little
8 bit up front.

9 MS. BOYLE: Well, I -- that's what I was
10 referring to when I talked about one of the things that we
11 should consider as a public interest. But, right now,
12 there's a disconnection between the states and what we do on
13 the impact on the fund.

14 And so I am always concerned when I know that
15 there is a carrier who's coming in or asking for status when
16 we -- there's already a primary carrier, and the cost of
17 doing that to one, two, three, and four. I think it is not
18 in the public interest and I think perhaps Billy Jack has
19 come up on perhaps a somewhat of a solution in tiering it.

20 I am not opposed to competition so that it
21 increases quality of service, but at some point we have to
22 say, at what cost? And that, to me, is part of our
23 responsibility as government officials.

24 MR. STRAND: I think that the commission, in
25 every case where there is an ETC application, should at

1 least ask themselves the question, if the incumbent goes
2 away and the new CETC is all that's left, is that in the
3 best interest of the consumer.

4 You know, that may not happen. Both may be able
5 to survive or a third may be able to survive, I don't know.

6 But I think you -- commissions need to ask themselves that
7 question.

8 STATE CONSUMER ADVOCATE GREGG: Let me follow up
9 on that. Obviously, under 214(e)(4) once an additional ETC
10 enters a rural area, or any area, the original ETC can
11 abandon that area. If we do not require equal access -- as
12 all land line providers now do provide equal access -- and
13 the incumbent land line ETC leaves, leaving only a wireless
14 ETC, what would happen to customers and their ability to
15 access the long distance carrier of their choice?

16 MR. STRAND: Well, at this point my understanding
17 is their long distance would be put to whoever the wireless
18 carrier uses themselves, or some other network.

19 STATE CONSUMER ADVOCATE GREGG: That would
20 eliminate the freedom of choice of customers in those areas?

21 MR. STRAND: That's certainly my understanding,
22 yes.

23 STATE CONSUMER ADVOCATE GREGG: Do you think that
24 is in the public interest?

25 MR. STRAND: No.

1 COMMISSIONER ABERNATHY: Well, except it depends
2 on what service they're offering. I mean, if it's unlimited
3 minutes anywhere, I'm not sure that it matters because you
4 pick up your phone and use it. But it comes into play if,
5 in fact, you still have an environment where you are charged
6 separately for local versus long distance minutes.

7 So a whole lot, I think, would depend on how --
8 and that's why it gets so complex when you're trying to
9 compare these apples and oranges -- how does the wireless
10 carrier market and how do the consumers value what it is
11 that the wireless carrier is marketing?

12 MR. THOMSEN: I think that equal access was put
13 in place to protect the consumers from monopoly. When there
14 is a competitor that comes in, especially when the
15 competitor, like we do and most wireless carriers do,
16 include long distance with their local calling, in essence
17 it is free to the consumer.

18 So if the wireless carrier were to offer equal
19 access, they would offer free -- or spend some money on the
20 carrier of their choice, which, you know, it's an
21 intelligence test to a certain extent.

22 I think, though, that if a situation ever
23 occurred -- and we never heard of it happening, and we've
24 certainly never seen it happen -- where an incumbent ETC
25 goes out of business and the competitive carrier takes over.

1 It would not be a bad thing for this same type
2 of monopoly type of requirements to then be part of the now
3 new incumbent ETC that is providing service to that
4 community.

5 STATE CONSUMER ADVOCATE GREGG: So you would be
6 willing to waive your 332(c)(8) arguments in that case?

7 MR. THOMSEN: In a case, yes, where we became the
8 monopoly.

9 MR. GLOVER: I think, from our standpoint, again,
10 regardless of how equal access, you know, intended to be,
11 whether it's to protect against monopolistic type behavior,
12 the fact is, when you look at the Act, it is specific with
13 regard to competitive neutrality.

14 And to the extent that the wireless provider has
15 a captive revenue stream versus the incumbent, it does
16 provide an advantage. But the real issue is back to your
17 initial question with regard to what happens to consumers if
18 the wire line carrier abandons the markets.

19 I mean, when you look at it today, when you poll
20 rural consumers and you ask them what they want, they don't
21 just jump up and say, we'd like to have our wireless carrier
22 supported for universal service. What they say is, we'd
23 like to have broadband connectivity, we'd like to have
24 intermit, we'd like to have DSL, we'd like for our
25 businesses to be able to grow, we'd like for our medical

1 clinics to have telemedicine and so forth.

2 So when you look at the larger implications of
3 policy here, it's very important to take into the sense the
4 total value proposition. And also there's argument -- we
5 talk about this as if we're funding a new entrant. But, I
6 mean, even Mr. Thomsen here admitted they've been in Montana
7 since 1992.

8 Many of these businesses have already had
9 business cases that were built out, that were providing
10 service. This is just an incremental revenue stream that
11 they've been forced to apply for, as Commissioner Wool has
12 implicated.

13 Wall Street -- we need a lot of these companies
14 to tell them to get this money. And, quite frankly, having
15 been in the rural wireless business, I can tell you you had
16 every incentive in the world to build out to rural America.

17 We're one big high margin revenue stream, and
18 that was roaming. Roaming revenues someone could just drive
19 through your market, pick up the phone and use it, and
20 wireless carriers make money. When you're a wire line
21 provider, unless they stop at Aunt Bea's and eat a piece of
22 pie and visit there, and pick up the phone and make a toll
23 call, you're not going to make any money.

24 So there are incentives for them to build out
25 into rural areas. And so, the key thing is, when you look

1 at the whole, in terms of the services that rural consumers
2 want, don't lose sight of the broadband equation and the
3 other advance services that they need from the incumbent
4 provider.

5 COMMISSIONER ADELSTEIN: If I could follow up
6 on -- go ahead, Nan has a --

7 COMMISSIONER ABERNATHY: Can we go ahead and let
8 Nan --

9 COMMISSIONER ADELSTEIN: Nan, go ahead. I guess
10 I won't follow up.

11 COMMISSIONER ABERNATHY: Go ahead and follow up.

12 COMMISSIONER ADELSTEIN: Well, just because it
13 fits with that -- I mean, the question is, if it is
14 incremental funds that are coming on top of a business that
15 was already operating, there would a legal requirement under
16 254(e) that all those funds be used for universal service
17 for the supported services. But there's virtually no
18 follow-through, as far as I can tell, by state commissions
19 or by the FCC to ensure that, in fact, 254(e) is complied
20 with.

21 What additional requirements should we be doing
22 to ensure that all funds are used as intended for supported
23 services and that none of them goes straight to the
24 company's bottom line, because that's not where they belong?

25 MR. STRAND: In fact, it's like the most amazing

1 coincidence in the world that the CETCs utilize the exact
2 same dollar funds to their universal service offerings as
3 the incumbents, and they have to, because they get the
4 funding based on our costs.

5 And so they somehow have to show that they spent
6 exactly as much money as we did, and doesn't that seem to be
7 the most remarkable coincidence in the world that they spent
8 exactly what we did on their universal service offer.

9 MR. THOMSEN: In fact, we spent dramatically more
10 than you did, and we just -- we put 600 million dollars into
11 rural America in the last three years. And we didn't get a
12 guaranteed cent of return for that 600 million dollar
13 investment. As opposed to the rural telcos, which not only
14 get a return, get an 11.25 percent return.

15 This is -- you know, we're in a competitive world
16 and the rural markets are becoming a part of that
17 competitive world. And I really think that we need to
18 figure out a way to make the universal service funding
19 process reflect that, and reflect the fact that there are
20 advantages to running your company like a business towards
21 having a -- towards cutting costs.

22 When we went into Montana, there were ten
23 companies that owned the twelve licenses in Montana. We
24 bought each of them out, we replaced the general managers
25 that each of those ten companies had with a single general

1 manager, we replaced the ten switches that those companies
2 had with a single switch.

3 We became an efficient company. And we provide
4 better service and broader coverage than any other wireless
5 company in the State of Montana or in most of the other
6 states that we provide service in because we are --

7 COMMISSIONER ADELSTEIN: Excuse me. My question
8 wasn't whether you're investing, the question is, are the
9 investments identical to the amount of universal service
10 you're providing and you willing, then --

11 MR. THOMSEN: They're significantly greater,
12 Commissioner.

13 COMMISSIONER ADELSTEIN: So you're willing to
14 document that? I mean, would you go in with us to have a
15 system where we would require audits and --

16 MR. THOMSEN: You can go in and read our public
17 statements -- we're a public company -- and you can see
18 exactly how much we spend on capital expenditures, and you
19 can see how much money we bring in from -- and there is a
20 wide gulf between the two.

21 STATE CONSUMER ADVOCATE GREGG: How would you
22 react to us adopting a guideline that suggested or required
23 states, as part of the annual 254(e) certification, to
24 review the amount of universal service funds received and
25 how they were spent each year by each ETC within the state?

1 MR. THOMSEN: I would say that would possibly
2 make sense in an over all sense. If you took it, not to the
3 state, but to the nation as a whole, there are -- most of
4 the -- or a lot of the companies that are receiving ETC
5 funds, both wire line and wireless, cover more than one
6 state.

7 STATE CONSUMER ADVOCATE GREGG: But the state was
8 the entity that granted you the ETC status, except in places
9 where the state did not have jurisdiction.

10 MR. THOMSEN: That's true.

11 STATE CONSUMER ADVOCATE GREGG: And the states
12 are required now to submit a 254(e) certification each year
13 to the FCC that all funds are being used appropriately by
14 all ETCs.

15 MR. THOMSEN: As I understand it, the -- and, you
16 know, I'm not a lawyer, I do not know the specifics of these
17 things, but it's my understanding that the universal service
18 funds are going to pay back embedded costs from the current
19 telcos, and that it isn't something that's a forward-looking
20 process.

21 It isn't saying, okay, the money you're getting,
22 you're spending this year. In fact, it's saying, the money
23 you're getting is paying you back for money you've spent in
24 past years.

25 STATE CONSUMER ADVOCATE GREGG: One thing --

1 COMMISSIONER ABERNATHY: You know, I'm going to
2 preempt at this point to allow Commissioner Thompson an
3 opportunity to ask a question, because we are over, and I
4 promised we'd get out of here on time, so obviously I'm
5 wrong, but we're going to let Commissioner Thompson ask some
6 questions, quick answers, and then we're going to -- and the
7 panel.

8 COMMISSIONER THOMPSON: And this is a quick
9 question. I want to round out the record on the issue of
10 service route, the coverage throughout the service area.
11 And, if you look back at the orders, an FCC order on -- the
12 FCC policy that talks about ETC serving customers in a
13 service area upon reasonable request.

14 And the question is two-fold and you can answer
15 them both real quickly. First, is this the correct standard
16 about when an ETC should serve a customer? And, if so, how
17 do you define a reasonable request?

18 MR. STRAND: Where do you want to start?

19 COMMISSIONER THOMPSON: Whoever opens their mouth
20 first.

21 MR. STRAND: The correct standard is the standard
22 that's set forth in federal law, which is you have to
23 provide service across the entire study area when you were
24 as a prerequisite to designation.

25 COMMISSIONER THOMPSON: Okay. Anybody else?

1 MR. THOMSEN: I think a reasonable request is
2 what's happening right now in -- for rural telcos, and it is
3 a standard that is fine for ETCs as well, competitive ETCs.

4 MR. METTS: If we, as an ILEC, have a request for
5 service from a customer and don't provide that service as
6 quick as we should, we will hear from the state commission,
7 so I guess we have that as a reasonable request.

8 The other issue I guess I would like to say is, I
9 still think the whole point or role of this about ETCs is
10 the fact that there would be less of them if they were
11 getting support based on their costs. I think that's pretty
12 well understood.

13 COMMISSIONER ABERNATHY: And on that note, I
14 think we will end today's meeting. I, again, want to thank
15 all of the panelists, my fellow joint board members for
16 their commitment, and who I missed going in was the staff,
17 who work so hard at putting this together, contacting
18 everyone, distributing all of the papers to us. You guys
19 did a super job and I really want to thank you.

20 Any closing?

21 (No response.)

22 COMMISSIONER ABERNATHY: Everybody happy? All
23 right. We're out of here.

24 (Whereupon, at 2:52 p.m., the meeting concluded.)

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REPORTER'S CERTIFICATE

IN RE: Federal-State Joint Board on Universal
Service
DATE: July 31, 2003
LOCATION: Denver, Colorado

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: August 13, 2003

Marjorie Bryant
Official Reporter
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