STATEMENT OF COMMISSIONER BOB ROWE

Re: Federal-State Joint Board on Universal Service,
CC. Docket No. 96-45 – Definition of Supported Services (July 2002)

I. INTRODUCTION.

I greatly respect the care, thoughtfulness and hard work that underlie the majority's Recommendation, both by the Joint Board members and by the staff. This is an exceptionally committed joint board. [1] I concur in the great majority of the Recommendation. I write separately because I dissent from significant portions of the Recommendation, because I wish to explain my reasons for joining in other portions, and because in too many places the tone and analysis used to reach specific conclusions strike me as unintentionally adverse to rural interests. I support Commissioners Martin and Copps suggestion for further proceedings, and encourage that one foundation for such proceedings be the "No Barriers" recommendation of the Rural Task Force.

Section 254 of the Act is perhaps the section of the Act that has best proven its value. Today many customers served by small rural companies receive the benefits of High Cost Fund support in the form of significantly higher quality service than could possibly be available without support. Efforts to improve or reform universal service should start with this recognition. Section 254 is not the problem. Rather, it provides powerful tools to ensure that rural and high cost areas receive services and rates that can reasonably be compared with urban areas.[2]

I am concerned that this Recommended Decision may lead to harm to rural areas through a simplistic application of section 254 that fails to recognize the complexity of

[1] Appropriate to the high level of Joint Board members' engagement with referrals, I suggest the deliberation process be modified to allow some more formal "discovery" or data request and response process to develop the record on subjects that are raised but not adequately developed to decide through the comment and reply process. Such a process would have given us a much better record to address a range of issues in this proceeding. The recent contribution method en banc was a notably successful effort to enrich the deliberative process.

[2] The Members of Congress who labored so hard to craft Section 254 would likely be surprised by the majority's assertion (in Paragraph 2) that Section 254 merely "codified the Commission's historic commitment." It did much more.

calculating cost-based universal service support. I am concerned by the approach that the majority seems to take regarding the issue of fund size. I am concerned that the majority fails to take sufficient account of widespread public access to and use of the Internet and the importance of digital communications to all citizens. Finally, I am concerned that the Joint Board is here bypassing an opportunity to recognize transport as an essential element in providing local exchange service in remote areas. Taken together, these problems prevented me from fully concurring in this Recommendation.

II. FUND SIZE.

The Act prescribes in several places that support to rural, high-cost and insular areas must be sufficient.[3] Nowhere does the Act say that more than sufficient support is good or bad. Yet, beginning in the first paragraph where the Recommendation "balances" fund size against the availability of "fundamental" telecom services, the majority nearly makes limiting the fund size the lodestar that orients the work of this entire proceeding. Many decisions have been influenced by the desire to avoid increasing the amount of support that might follow an addition to the list of supported services.[4]

While legitimate as a consideration, I want to note that this concern may in some cases be entirely misplaced. The majority seems to assume that increased services lead inexorably to both increased cost and a larger universal service fund. The former is probably true, but the latter could easily be false. The existing support system for large carriers is based upon the distribution of costs among the states. A carrier gets support only if its state average costs exceed 135 percent of the national average. If no state had costs above 135 percent of the average, support would fall to zero.[5] Only eight states are now above this threshold. A new service that adds costs would affect the amount of support based on how it affects the distribution of costs. It may seem a seeming paradox

[3] 47 U.S.C. § 252(b)(5), (e).

[4] For example, the majority expressly states that adding soft dial tone would be contrary to the public interest because the Joint Board is unclear about the effect it would have on the size of the universal service fund. ¶ 29.

[5] The hold-harmless provisions would delay the effect, however.

to some, but adding certain kinds of costs could actually reduce fund size, because it increases the national average cost. [6] This may be precisely the kind of cost increases that are at stake with plant to support advanced services.[7]

In the key area of advanced services, the majority has taken a negative view of the record, emphasizing the incremental costs of completing a broadband rollout. The majority overlooks, for example, the substantial progress that many small rural companies have already made in providing their customers with broadband service. According to the several year-old NECA Rural Broadband Cost Study, about 65 percent of the lines served by small rural carriers will be capable of providing broadband service by 2002. This fact, coupled with the ambitious rollout of data-network services by rural carriers, show that rural telephone companies are trying to meet their customers' needs for high-speed lines.[8]

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[6] For example, if every large carrier's cost increased by $10 per line per month, the distribution would be compressed. Fewer carriers would be above 135% of the new and higher national average cost, and fund size would decrease.

[7] In his written statement (pp. 3-4) to the Joint Board's recent en banc concerning the universal service contribution method, Dr. Bill Gillis, an economist specializing in rural economic development, who chaired the Rural Task Force, made the following related point:

"The unanimous agreement of Rural Task Force members representing RLECS, CLECs, consumer advocates, and IXCs was not forged simply on a desire that advanced services be more widely available in areas served by Rural Telephone Carriers. More broadly, the members recognized that public interest and Congressional intent expressed in Sections 254(b)(2) and (3) is served by ensuring the universal availability of a network capable of providing a wide array of profitable information services. To the extent an upgraded plant within the public switched network enables a higher proportion of necessary revenues to be achieved directly through market transactions and smaller subsidies are required to justify the business case for investment, the future cost of universal service can be reduced. However, if public policy including sufficient universal service funding hampers the deployment of advanced service capable infrastructure in high cost rural locations, consumers are more likely to be required to pay a higher level of universal service dollars over the long-run as profitable information service options are not available to produce critical revenues to 'buy-down' necessary universal service support. In short, the 'no-barriers to advanced services' recommendation is intended to maximize potential private market leverage to support rural telecommunication needs and minimize the cost of future subsidies."

[8] In Paragraph 15, the majority presents the worst-case view of the NECA study, citing only the $10.9 billion total cost. That study also describes how many rural carriers have upgraded plant, shortened loops, and stand ready to deploy DSL to most of their exchanges for a relatively small incremental cost. For the 1.6 million lines within the Central Dial Office Serving Area (CDOSA), the incremental cost of upgrading to DSL was estimated at $.8 billion. For the one million lines outside the CDOSA, the estimated incremental cost of upgrading was $4.5 billion. The $10.9 billion total was driven by the $5.6 billion cost of providing DSL access to .6 million "isolated" customers. The Rural Broadband Cost Study is available at http://www.neca.org/bband3.asp. Further, the NECA study expressly did not model non-DSL last mile access paths, which might be particularly useful in serving isolated customers.

I do not support spending universal service funds for items that do not provide increased value to end-users. I do think the principal concern of the Joint Board should be to ensure that support is at least sufficient to achieve the goals of section 254.

III. COSTS OF SUPPORTED SERVICES.

The Recommended Decision recites the statutory sections governing the list of supported services. Perhaps because they believe the statutory interpretation straightforward, however, the majority does not discuss how those sections should be applied to the present task. Upon consideration, the required analysis is less straightforward and more complex. I do not believe the Joint Board can make sensible recommendations about what services should be on the list without first clarifying how the list will be used. I would have included more discussion about how adding a service to the list, or withholding a service from the list, affects costs and universal service support.

The list of services can potentially answer three different questions:

1. *What services must a telecommunications carrier offer before it can be certified as an ETC and receive federal support?*
2. *When support is calculated, what costs are included*? (Today, federal support is based on costs.)
3. *To what purposes may carriers apply federal support?*

Some believe that "the list" of supported services simply and directly answers all three questions in the same way. I believe a more nuanced approach is required, particularly in answering the first two questions.[9] Ignoring the difference between the questions could ultimately harm rural customers and universal service goals.

[9] I regret that our notice in this proceeding did not more fully explore this issue. If it had, we would likely have received more informed and understandable comments. As it stands, comments of the parties are occasionally difficult to parse. Many comments appear to be based on implicit assumptions about the effect of adding a service to the list, but without clearly explaining whether the argument was addressed to the minimum requirements for ETC eligibility or the mechanics of calculating support.

The great majority of the Recommended Decision is properly about the first question. Our recommendations here, and the FCC's final action on the list, will define the minimum service requirements for certification as an Eligible Telecommunications Carrier (ETC). No carrier should receive federal support that does not offer this floor level of services.

Yet even as to this simple issue, there is some ambiguity because the list is not really a list of services. In most locations, a consumer may not be able to purchase separately a single "service" now found on the existing list.[10] I am not aware that any customer, for example, can elect not to interconnect with the interexchange network or to waive emergency coverage. In that sense the list essentially describes the minimum permissible features or elements of local exchange service.[11] The Recommended Decision acknowledges this by characterizing the services list as a "functional" definition. The list describes the functions that the network must perform for local exchange customers.

It is as to the second question, allowable costs, where I see risk from today's Recommendation. The Recommendation recites the Act's requirement that support be provided only to those services that are supported[12] and thus that are "on the list." In my view, the Joint Board and the Commission must apply this section in a way that makes sense in light of the overall purpose of that statute and the practical workings of existing support programs. I would have preferred that this Recommended Decision explain that the costs that are allowed in calculating support cannot be determined directly and solely by considering the "*services"* on the list.

Fundamentally, this is because support today and for the foreseeable future is based on the cost of purchasing, installing and operating *facilities*. This is true whether

[10] Tone dialing at least may in some areas still be an elective service, but in many other areas is available without charge.

[11] I know of no customers, for example, who may elect individually to pay or refrain from paying an E-911 surcharge. Nor may any customers waive connection to the interexchange network, another item on the list.

[12] 47 U.S.C. § 254(b).

the support calculation is based on embedded costs or forward-looking cost. The existing cost-based support systems are necessarily complex.[13]

A second important fact is that nearly all telephone equipment is used in common. Loops provide not only "listed" local exchange, operator and emergency services but also "unlisted" toll and broadband services. Switches provide not only "listed" services such as dial tone and DTMF signaling but also the "unlisted" service of equal access to interexchange carriers. As a result, a support calculation today includes some method to allocate cost between listed and unlisted services. The "list" of supported services can provide a guide to that cost allocation, [14] but the mapping is inexact. The outcomes are based on dozens, possibly hundreds, of decisions about what costs should be allowed in support calculations. Judgment is required to align the list of services with facilities and facility costs with support.

I would have recognized this complexity in the Recommended Decision because a decision to include or exclude a service from the list might be read in the future as endorsing changes in allowable costs, possibly leading to support reductions in rural and high-cost areas. The majority implicitly recognizes this problem for advanced services, where the problem arises most conspicuously. Both rural and nonrural carriers today receive support based on cost calculations that include at least some broadband facilities. For large nonrural carriers, support is based on the Synthesis Cost Model, which includes some loop facilities beyond that required merely for voice communications.[15] For rural carriers, support is based on embedded costs. Some costs of broadband plant can legitimately be,[16] and frequently are, the basis for federal support to these rural carriers.

IV. A "NO BARRIERS" PATH FORWARD.

[13] The Recommendation's discussion in footnote 43 gives hope that this concern may be more fully addressable in the future.

[14] For example, the Commission's Synthesis Cost Model performs calculations to exclude a portion of the interoffice trunking network to account for toll usage, an unlisted service.

[15] That model's parameters are set to design loops suitable for some DSL services, even though such loops may be more costly than those needed merely to provide voice service. The model limits loop length at 18,000 feet, thereby enabling "ADSL1" services but not "ADSL2" services. 5th Report and Order ¶ 70.

[16] Rural carriers receive loop support based on costs that, under Parts 32 and 36 of the Commission's rules, qualify as category 1.3 cable and wire (loop) or category 4.13 central office equipment (circuit equipment).

I am pleased that, in Paragraph 18, the Joint Board here endorses the Commission's earlier statement from the Rural Task Force order that Commission policy should not impede the deployment of plant capable of providing access to advanced or high-speed services. [17] This should minimize the risk that this Recommended Decision will be used in the future to eliminate costs or reduce support for advanced services. It should also provide some encouragement to carriers to continue investing in forward-looking technology.

The Commission's Rural Task Force statement was a paraphrase and abridgement of the more detailed Rural Task Force recommendation. [18] I am disappointed that the majority has not endorsed the Rural Task Force recommendation in full. To the extent that the Joint Board does not deal here with the "no barriers" issue in detail, I hope that it will do so in another context in the immediate future.[19] "No barriers" should be the basis for the further proceeding suggested by Commissioners Martin and Copps. To the extent high cost fund and other support facilitates the construction of robust, forward looking networks, in many cases it is probably less important that specific services or "applications" residing on a network be supported. However, this is a topic to be explored, I hope, in the called-for proceeding.

The scope problem applies to more than advanced services. For example, the Joint Board here recommends that soft dial tone should not be a supported service. Yet

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[17] In its Rural Task Force Order the Commission agreed with the Rural Task Force that the FCC's "universal service policies should not inadvertently create barriers to the provision of access to advanced services," and stated that "[we] believe that our current universal service system does not create such barriers." 14th R&O (Rural Task Force) Executive Summary.

[18] The Rural Task Force "no barriers to advanced services" policy including the following principles:

a) Universal service funding should support plant that can, either as built or with the addition of plant elements, when available, provide access to advanced services. State commissions could facilitate this infrastructure evolution and may make an exception for carriers with functional but non-complying facilities.

b) Telecommunications carriers should be encouraged by regulatory measures to remove infrastructure barriers relating to access to advanced services.

c) The federal universal service support fund should be sized so that it presents no barriers to investment in plant needed to provide access to advanced services. Specifically, to remain "sufficient" under the 1996 Act, the fund should be sized so that investment in rural infrastructure will be permitted to grow.

some states now require that their local exchange carriers must provide soft dial tone. Providing this service can increase the carriers' loop investment. I agree with the majority that providing soft dial tone should not be a minimum qualification for certification as an ETC. At the same time, however, I am concerned about the possible effect of this recommendation on cost recovery. In states where soft dial tone is required, the Joint Board should say that any incremental costs associated with soft dial tone should continue to be included in federal support calculations.[20]

In order to reduce the risk of such unintended results, I would have included in today's Recommended Decision a broader discussion of the differences between ETC designation and calculating support. In my view, the "floor" or "core list of services" for ETC certification under question #1 need not be, should not be, and realistically cannot be the "ceiling" for cost recovery under question #2. The floor standard is a level below which no ETC may venture, but above which costs often are and should be recognized. I would also have said that the size of the difference between the floor and the ceiling can be affected by a variety of factors, such as the difficulty of including or excluding certain costs, the need to recognize legitimate state requirements on local exchange carriers and the desire to encourage broadband deployment.

If this Recommended Decision had clarified these issues, I think the groundwork would have been laid for a more sensible policy on promoting advanced services, particularly in rural areas. By failing to clarify this difference, the Recommended Decision not only passes this opportunity by, but it leaves rural areas vulnerable to future exclusions for costs associated with services that, for other reasons, we have recommend here should not be added to the list.

V. DIGITAL CONNECTIVITY.

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[19] In the Rural Task Force Order the Commission "commit[ted] to further consideration of the Rural Task Force's proposed 'no barriers to advanced services' policy in the future." 14th R&O (Rural Task Force) Executive Summary.

[20] Similarly, the majority concludes here that Expanded Area Service should not be a supported service. I agree that providing EAS should not be a minimum requirement for ETC certification. But EAS calling is required in some states as a part of the duties of local exchange carriers. I am concerned that, where EAS is required, today's decision may be the basis of a future decision to allocate away loop and switching costs associated with EAS facilities.

The Recommended Decision does not respond adequately to the dramatic evolution of the network and of consumer usage of the network to digital communications. While I agree with the majority's ultimate recommendation not to include specific advanced services in the list of minimum services at this time, today's recommendation leaves undisturbed an outdated concept of universal service from 1997 that is based entirely on traditional voice service. Today's recommendation does not alter the list of core services in any way that reflects the increased importance of the Internet, and of digital communications generally, to residential customers. Nor does it acknowledge that some customers still cannot reliably access the Internet because of inadequate analog local or interexchange facilities.

Section 254(c)(2) states, "[t]he Joint Board may, from time to time, recommend to the Commission modifications in the definition of the services that are supported by Federal universal service support mechanisms."[21] Section 254(c)(1) also states that "[u]niversal service [is] an evolving level of telecommunications services" and that the Commission shall "tak[e] into account advances in telecommunications and information technologies and services."[22] Moreover, the Act directs the Joint Board to base its policies on principles that ensure that all parts of the country have access to telecommunications and information services that are reasonably comparable to those services provided in urban areas.[23] Finally, the 1996 Act's legislative history shows the Commission has "specific authority to alter the definition from time to time" in order to "take into account advances in telecommunications and information technology."[24] These statutes read together suggest a broad conclusion. Universal service policies should not lead the parade to deploy advanced services; but neither should they fall so far behind that the parade is altogether out of sight. (And, in Section 254, Congress made clear that citizens in underserved and unserved areas shouldn't be the shovel brigade at the technology parade's end.)

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[21] 47 U.S.C. § 254(c)(2).
[22] 47 U.S.C. § 254(c)(1).
[23] 47 U.S.C. § 254(b)(3).
[24] Joint Explanatory Statement at 131.

The Commission last acted on the question of Internet connectivity in 1997. At that time, it determined that voice grade access to the public switched network "usually" enables customers to secure access to an Internet Service Provider, and, thus, to the Internet. It declined to add higher quality links to the list of required services, in part because the record did not show that a substantial majority of residential customers then subscribed to Internet access using high-speed access links.[25] As a result, the list of supported services is today entirely silent on digital transmission. In 2002, a carrier can receive federal support even though it does not provide a method for its customers to connect to the Internet.

As the majority recognizes, the situation has changed significantly since 1996 when the Act passed. Not only has Internet connectivity become commonplace, but broadband is more widely available. As noted by the majority, 56.5 percent of all households have computers and could benefit from advanced or high-speed services. Also, about half of all households today subscribe to some form of Internet access. I agree that this is not yet the "substantial majority" of residential customers mentioned in the statute. However, it does provide a solid basis for a recommendation of some form of digital connectivity.[26] Even broadband service is now reportedly widespread. High-speed Internet access service is now reportedly available to approximately 75-80 percent of all the homes in the United States via DSL or cable modem service.[27]

These data illustrate the contrast between the digital "haves" and "have nots." The majority of customers not only has availability of Internet access, but also has availability of broadband Internet access. By contrast, in some parts of the country carriers can provide marginally satisfactory voice service, but their networks do not support modem use. A modem connected to such a telephone line does not work. It is still usually true, as the Commission noted in 1997, that a voice grade circuit allows

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[25] First Report and Order, ¶ 83.

[26] The Commission has already determined that all four criteria enumerated in section 254(c)(1) must be considered, but not each necessarily met, before a service may be included within the general definition of universal service, should it be in the public interest. The Commission has flexibility to establish a definition of services to be supported, after it considers the criteria enumerated in section 254(c)(1)(A)-(D). *First Report and Order*, ¶ 61. For this reason, the Commission today could establish a minimum digital connectivity standard, if it wished, even though something like a bare majority of customers today uses that service.

[27] The data also show that relatively few customers purchase broadband, even where it is available.

digital communication using a modem. But it is still not universally true. This is precisely the kind of difference that Congress tasked the Joint Board to eliminate. The problem is exacerbated by the fact that the Commission and Joint Board may leave this question undisturbed for another five years.

Both the Congress and the Commission are also currently seeking ways to expand broadband deployment. In a ruling earlier this year, the Commission declared that cable modem service is an "information service." The Commission explained that its "overarching goal" in this decision was "to "encourage the ubiquitous availability of broadband to all Americans".[28] Bills pursuing the same goal have been considered in the Congress. If it is important to make broadband Internet available to the last 25 percent of the population, I think it should be urgent to provide rudimentary digital access to the fewer people who cannot today connect to the Internet at any speed.

The notice here asked about analog bandwidth, but not digital throughput.[29] As a result, the record offers little concerning the costs or benefits of a digital throughput requirement, and not enough is yet known about costs or benefits to make a specific recommendation. Customers today typically buy modems capable of speeds of 56,600 bps, and throughput rates on voice lines in urban areas increasingly exceed 28,800 bps.[30] However, the record here is not adequate to form conclusions on the prevailing level of service in urban areas. Moreover, it might be unduly expensive or disruptive to adopt a 28.8 or 56.6 standard without a longer delay for implementation. Perhaps a more appropriate, although conservative, minimum standard would be the older modem standard of 14,400 bps.

As to both the speed required and implementation of the requirement, a variety of options are available. Most of them would have been greatly preferable to the status quo.

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[28] *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities*, GN Docket No. 00-185, *Declaratory Ruling and Notice of Proposed Rulemaking*, rel'd Mar. 15, 2002, ¶ 4.

[29] Digital throughput is a more neutral metric, more consistent with a "no barriers" approach, and in my view more relevant to what we should really be considering.

[30] To many, 28,800 bps is considered functionally inadequate for increasingly data-intensive Internet communications.

I disagree with much of the reasoning offered by the majority for its conclusions on broadband and analog bandwidth. For example, the majority asserts that adding advanced or high-speed services to the list could jeopardize support currently provided to some carriers.[31] This problem could be easily avoided by granting a reasonable delay for implementation, something that has often been done in the past when new services were required[32] and that (on a divided issue) the Recommended Decision itself suggests for equal access.[33]

The majority states that a network transmission component of Internet access, whether it is 14.4, 28.8, 56, or some other speed, is not "essential to education, public health, or public safety" at this time, because no community or public services agencies are available exclusively over the web.[34] It would almost certainly be incorrect to state that the Internet is not a primary means for accessing many essential services, although the record is not well developed. The notice here never asked about the implications of a digital transmission standard, only analog bandwidth. As the majority notes, analog bandwidth has several additional complicating factors. Therefore many of the comments received focused on the technical issues surrounding analog bandwidth, and little was said about the value of digital connections.

Moreover, the majority does not properly apply the statutory test. The question should not be whether community or public service agencies are available exclusively over the Internet. The statute does not require the Joint Board to prove this much. One problem is that the majority test is overbroad. If applied consistently, it could sweep more than Internet connections off the list of supported services. Basic telephone service

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[31] Para. 17. From my experience, it is also difficult to conceive of substantial material risk that investments in "mature narrowband technologies" (Paragraph 23), either wireline or wireless, will become obsolete or stranded any time soon. Here and elsewhere, parts of the Recommendation almost assume a "lowest common denominator" approach to reconciling competition and universal service policy. From the perspective of rural telecommunications users, encouraging competition to provide excellent service might produce more noticeable benefits.

[32] In 1997, the Commission granted in three limited instances a reasonable period during which otherwise eligible carriers were allowed to complete network upgrades required for them to begin offering certain services that they were initially incapable of providing. First Report and Order, para. 89. Rural Utility Service programs also provide relevant examples of encouraging the phased upgrade of telecommunications networks.

[33] Para. 86.

[34] Para. 25.

itself could be suspect, since few community or public agencies are known to conduct transactions only over the telephone.

The more fundamental problem is that the majority does not adequately recognize the important benefits that the Internet today provides to its users. Those benefits span all three categories listed in the statute, education, health and safety. It is not hard to see that under at least some circumstances these uses can be "essential." Education is available online in locations not served by traditional institutions, and the Internet allows students in remote rural areas to obtain basic and even advanced education to which they would otherwise have no access. Detailed health information can be obtained online, and Internet users frequently use this information to augment the advice of the family doctor, sometimes even to avoid an unnecessary visit. Public safety warnings are now routinely posted on the Internet for weather events, and in a national or regional emergency the Internet could prove to be as important a means of communication as the radio, providing additional functions not available through broadcast communications.[35] In addition, the importance of Internet connectivity is now recognized by the Commission's recent decision affecting the telecommunications relay service program. [36] I would have preferred that this Recommended Decision conclude that Internet connectivity, at some speed, is essential to education, public health or public safety.

In sum, it may not yet be time to make advanced services a floor service required of all carriers. But it is long past time to make Internet connectivity, at some speed, a minimum standard for telephone service everywhere in this country. Widespread Internet usage, extensive broadband availability, and broad support for ubiquitous broadband deployment all argue for adding a modest digital connectivity requirement to the list. In my view, the Joint Board should ask the Commission to make an explicit commitment to address this matter by issuing a further notice.

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[35] The Internet could be used, for example, to coordinate volunteers after a natural disaster or to provide detailed information about the progress of a forest fire.

[36] *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Petition for Clarification of WorldCom, Inc.*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice, FCC 02-121 (rel. April 22, 2002) ("*Declaratory Ruling*").

VI. TRANSPORT.

The majority has chosen not to address fully here the question of providing support for carriers with very high transport costs. I would recommend examining this issue as soon as possible because very high unsupported transport costs are the primary barrier to establishing telephone service in certain remote areas.[37]

Transport facilities are a part of the public switched network. They are a network functionality and thus are not a consumer service or "function" that has previously been listed under section 254(e). Nevertheless, transport facilities are essential to many of the functions that are on the list, including: voice grade access to the public switched network; access to emergency services; access to operator services; access to interexchange services; and access to directory assistance. Moreover, the value of local exchange service would be almost totally undermined without transport. In many areas, interoffice transport is used even for "local" calls that involve two switches in the same local calling area. Thus without transport, some customers could only call other customers in their immediate community.

Transport costs are not uniform, and they are particularly high in some very remote areas. Where customers are clustered but are otherwise remote from other communities, transport costs can even exceed loop costs, which ordinarily dominate rural local exchange costs.

The current support mechanism for rural and non-rural carriers does not recognize all transport costs. For rural carriers, there is no transport support at all. Thus, even though supported services depend upon the transport function, not all or in some cases none of the high costs of providing the transport function are covered. As a result, a carrier with high transport costs may be unable to provide all of the services required to maintain its eligibility for support and at the same time keep rates at affordable and comparable levels. This can produce high toll rates in areas where transport costs are

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[37] See my separate statement in the Joint Board's Recommendation concerning the Rural Task Force Report, Part B, "Unserved and Underserved Areas," for additional discussion of this issue.

pooled and the continued absence of any telephone service in areas where they are not. High transport costs may also be a critical impediment to the ability to provide larger local calling areas to customers in remote communities at a reasonable cost.[38]

Despite its importance to some remote areas, I concur with the majority that support for transport costs is not an issue that can be addressed here. Here the question is which services should be required of each Eligible Telecommunications Carrier, and which services and facilities are eligible for support, not which facilities generate the costs recognized in the support calculation. Still, I think the problem is so significant that it needs to be addressed promptly. I recommend that the Commission initiate a proceeding to address supporting the transport costs of rural and non-rural carriers and the effect of that support on availability of services and the comparability and affordability of rates. The Joint Board should address the issue as soon as practicable, considering the other issues before it.[39]

VII. CONCLUSION.

I appreciate the Joint Board's hard work on this referral. The Joint Board has an ambitious and important agenda before it. I hope it will be able to address the matters raised in this opinion, and look forward to participating in that work.

[38] This would also be a partial, constructive response to comments received in this proceeding by, among others, the US Conference of Catholic Bishops and the State of Alaska. Further, transport is a key, but often-neglected element in Internet access. Last year's NECA Middle Mile study, concerning the cost of transporting rural Internet traffic from an ISP to an Internet backbone provider is relevant and useful, http://www.neca.org/midmile.htm.

[39] The Recommendation, states that the Joint Board will take up transport costs in the pending referral of the remand of the Ninth Report and Order, following the remand from the Tenth Circuit Court of Appeals. Para. 57. I note the Ninth Report and Order concerns the large "nonrural" carriers and thus is unlikely to address transport issues for small rural carriers. Further, reply comments in that proceeding were due earlier this Spring. I trust the Joint Board is prepared in that proceeding specifically to consider the effects of the lack of support for transport on both large and small carriers, and also to develop an adequate record concerning transport, including reopening the record if necessary.