
TELECOMMUNICATIONS & ELECTRONIC MEDIA

WHITHER UNIVERSAL SERVICE IN THE DIGITAL AGE?

By *Chris Moore**

Last year marked the tenth anniversary of the Telecommunications Act (“the Act”).¹ Since its passage, the only thing that has remained constant in the communications industry is change—the development of new technologies, industry consolidation and convergence, product bundling, etc.² These radical transformations have resulted in recent efforts to reform communications laws and policies.³ One of the central issues of the debate on communications policy has been the reform of “universal service,” a policy that stands for the principle that all Americans should have access to quality telephone service at reasonable rates regardless of where they live and their level of income.

While some have recently questioned the commitment to the universal service concept, given the advent of competition in the communications marketplace, the system that has been implemented over the years to achieve the goal of universal service remains intact. Recently, however, several developments in the communications industry have adversely impacted the universal service system. One of the most significant issues is the “significant strain” that funding the system has caused.⁴ Since enactment in 1996, spending for universal service programs has steadily increased, while the revenue base assessed for funding has eroded. For these reasons, there is a growing consensus that the system, as presently designed, is no longer sustainable and, therefore, that universal service policies are under threat of death without significant reform.

The current policy debate on securing the viability of universal service financing has focused mainly on the contribution and distribution parts of the system. Specific issues include: who should contribute to, and what methodology should be used to fund universal service policies; the criteria for who should receive universal service funds; and what services should be included in the definition of universal service. This article provides an overview of the policies and problems in light of the recent fundamental changes in the industry.

OVERVIEW OF UNIVERSAL SERVICE

Universal service has been a fundamental goal of telecommunications policy in the United States since the enactment of the Communications Act in 1934.⁵ Historically, the universal service concept has basically stood for the principle that all Americans should have access to high-quality telephone service at affordable rates, including those living in rural and high cost areas and low-income consumers.⁶ Acknowledging the diverse American landscape, universal service recognizes that the costs of providing telephone service to all corners of the United States vary widely, but that the nation as a whole benefits from a national network.

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Although the commitment to universal service has been real since 1934, the policy was not codified until the 1996 Act.⁷ That Act reaffirmed and expanded federal policy regarding universal service.⁸ In Section 254, Congress set forth the statutory framework for the universal service system.⁹ One of the core principles of the Act was its preservation and advancement.¹⁰ Congress identified reform of the system as one of the main goals so that it be preserved and advanced as the local telephone markets moved from monopoly to competition, and directed the Federal Communications Commission (FCC) and the states to take the steps necessary to establish support mechanisms to achieve this goal.¹¹

The Act expanded universal service policy by directing that universal service support be made available to schools and libraries qualifying for telephone service, Internet access, and internal network wiring; and to public and non-profit rural health care providers for telecommunications services, installations and Internet connections.¹² The Act also laid the groundwork for other carriers entering the local telephone markets to compete with incumbent service providers over eligibility to receive universal support—referred to as competitive eligible telecommunications carriers (ETCs).¹³

FCC and court decisions over the years have shaped the system of funding for universal service. The current universal service system is a complex “patchwork” of implicit and explicit subsidies.¹⁴ In order to achieve the goal of universal service, in many instances rates for certain telecommunications services were set above the cost of providing those services, to generate a subsidy that could be used to reduce the rates for local telephone service provided to residential customers. Specifically, some rates for interstate access charges and other service charges, particularly those of some rural carriers, were set at a level above cost in order to contribute to universal service.

The FCC has also established a federal universal service fund (“USF” or “Fund”). Section 254(b) of the Act directs it to establish universal service support mechanisms with the goal of ensuring the delivery of affordable telecommunications services to all Americans.¹⁵ It provides that universal service policies be based, in part, on the principle that contributions be equitable and nondiscriminatory, and support mechanisms “specific, predictable and sufficient.”¹⁶

Section 254(d) provides that every carrier providing interstate telecommunications service contribute to funding universal service. Thus, the Fund is supported by mandatory contributions from all carriers that provide interstate and international telecommunications services. USF contributions are based on a percentage of telecommunications providers’ interstate and international revenues from providing those services. This percentage, or “contribution factor,” is calculated by the FCC on a quarterly basis and varies depending on the anticipated funding needs for a program.

For carriers that could not easily identify the amount of revenues that are interstate as opposed to intrastate, such

as wireless providers, the FCC provided a so-called “safe harbor” percentage.¹⁷ Under this method the FCC establishes percentages to approximate the percentage of interstate revenue generated by the wireless service provider. These percentages are for guidance only, and a wireless carrier can report a percentage less than the safe harbor with proper backup documentation.

Some states have also created universal service funds financed by assessments on certain telecommunications revenues. Also, most states maintain some intrastate rates, in particular the intrastate access charges imposed by rural carriers, above cost to contribute to universal service.

The USF supports four primary programs designed to help achieve the goal of universal service. Those components are the High Cost Program (access to telecommunications services in rural or high cost areas at rates comparable to urban areas), Low Income Program (support for low-income customers), the Schools and Libraries Program (discounted communications service for schools and libraries), and the Rural Health Care Program (discounted communications service for rural health care facilities). Spending on USF programs was \$6.5 billion in fiscal year 2005.¹⁸ Disbursements among the four universal service programs in 2005 were 58.7% for high-cost support, 28.6% for schools and libraries support, 12.4% for low-income support, and 0.4% for rural health care support.¹⁹

USF funds are given directly to the telephone service provider who qualifies as an ETC—not the end user of the service. The FCC has overall responsibility for the USF—which, in conjunction with state utility regulators determines the level of spending necessary to meet universal service obligations. The Universal Service Administrative Company (USAC), a non-profit corporation regulated by the FCC, manages the specific USF programs, collects the funds necessary to finance those programs, and dispenses the payments to ETCs.

USF AND THE CHANGING COMMUNICATIONS MARKETPLACE

Over the years the amount of spending on USF programs has increased, and it continues to grow. Outlays from the Fund grew from \$3.3 billion in fiscal year 1999 to \$6.5 billion in fiscal year 2005.²⁰ Total high-cost support increased from about \$1.7 billion in 1999 to about 3.8 billion in 2005.²¹ Total low-income support increased from about \$500 million in 1999 to \$804 million in 2005. Support for schools and libraries has increased from around \$1 billion in 1999 to about \$2 billion in 2005.²² The demand for rural health care support has not changed much since 1999, with disbursements at about \$25 million in 2005.²³

The increase in USF spending can be traced to several factors: steadily growing costs associated with delivering telephone services to high-cost areas and low-income people; previously uncounted intercarrier compensation that is now included in USF spending totals;²⁴ the expansion of USF to include the new programs for schools, libraries and rural health care providers; and finally, the increase in the number of competitive ETCs.²⁵ The overall growth of the Fund is expected to increase further. The amount of support for competitive ETCs has been growing and is likely to continue under current ETC guidelines.²⁶ If reform of intercarrier compensation between carriers results in lower access charges, these amounts may also

be included in future USF outlays. Too, any expansion of the definition of universal service to include broadband Internet connections would expand the Fund.

While USF spending is rising, since 2000 the contribution base that funds the USF has been decreasing—falling by 5 percent between 2000 and 2003.²⁷ This decrease is due mainly to a decline in long distance prices and revenues due to increased competition in the long distance market.²⁸ Total end-user interstate and international telecommunications service revenues reached a peak of \$81.7 billion in 2000 and fell to an estimated \$77.9 billion in 2005.²⁹ The development of new and advanced communications technologies has also added to the decline in revenue base. Consumers are substituting E-mail or Internet telephony, i.e., voice over Internet protocol (VoIP), services for interstate and international calls.

Another problem is that it has become increasingly difficult to identify precisely which are interstate and international telecommunications service revenues because the carriers are offering these services to customers as part of bundled packages that include other services. Wireless carriers, for example, often bundle interstate calls in their service plans. While stand-alone long distance revenues have been declining, wireless services and Internet telephone services “have been growing dramatically.”³⁰ Separately but also contributing to the decrease, the FCC changed the classification of DSL broadband Internet service³¹ from a telecommunications service to an information service—thus not subject to USF contributions.³²

In sum, the growth of competition in the communications marketplace, coupled with advances in technology, have had a negative impact on the health and viability of the USF as presently designed. These changes have led to an increasing disparity between the carriers and revenue source contributing to the Fund and the growth in the entities and programs eligible to receive funding. The universal service system is requiring significantly higher amounts of funding for new programs (schools, libraries and rural health care), offsets for lower access rates, and an increasing number of competitive ETCs. At the same time, the sources of funding (long-distance and international revenues) are shrinking. Calls for USF reform focus around the shrinking of the contribution base and the growth in distributions of the overall Fund.

USF CONTRIBUTION METHODOLOGY ISSUES

Due to the increasingly competitive telecommunications marketplace, the FCC has been reviewing the universal service contribution methodology.³³ Since 2001, it has taken various actions to ensure the stability and sufficiency of the USF.³⁴ Most recently, in response to the shrinking contribution base, it adopted two modifications to the existing approach for assessing contributions to the USF.³⁵ First, the FCC raised the existing wireless “safe harbor” percentage used to estimate interstate revenue to better reflect growing demand for wireless services.³⁶ Second, it expanded the base of USF contributions by extending universal service contribution obligations to providers of interconnected voice over Internet Protocol, or VoIP, service. Similar to wireless carriers, for these VoIP providers the FCC established a safe harbor percentage to estimate interstate revenue.³⁷

The measures taken by the FCC are interim and not intended to fully address the fundamental concerns regarding the long term viability of the current revenue-based system.³⁸ It continues to examine more comprehensive reform of the contribution methodology. In conjunction with the interim order, a proceeding was initiated to consider connection-based methodologies that would assess carriers based on their provision of connectivity to interstate networks, regardless of the volume in minutes-of-use or the amount of revenues derived from a connection.

Several options have been proposed to fundamentally reform the financing of universal service. One option is to expand the contribution base of the current system to include total telecommunications revenue other than interstate and international revenue. Currently only about \$80 billion of the roughly \$230 billion in total telecommunications revenues are eligible to be counted in the USF contribution base.³⁹ Before the FCC could include intrastate revenues in the assessment base, Congress would have to modify the Communications Act of 1934—since Section 254(d) expressly identifies interstate providers and a court decision confirms that the FCC is prohibited from assessing intrastate revenues.⁴⁰ A related alternative is to include revenue from other categories of services, most notably revenue from broadband Internet service in addition to all telecommunications services. This option would also likely require modification of the Communications Act of 1934 before the FCC could include all these revenues in the assessment base. Another option is to move away from a revenues-based approach and instead move to a numbers-, or connections-based methodology. Under this option generally carriers could be assessed based on each telephone number assigned to a customer or on the basis of the capacity of the telephone lines that the carriers provide to the customers.

The FCC has noted that a consensus approach to contribution methodology reform has not materialized.⁴¹ Commentators there have “generally supported telephone number-based proposals or hybrid proposals that would combine a telephone numbers system with a revenue- or connection-based component.”⁴² Other parties have advocated retaining a revenue-based approach and broadening the base of contributors.⁴³ Many colleges and universities, as well as certain low income, low volume consumers, oppose non-revenue-based proposals claiming they would experience increases in USF obligations.⁴⁴

USF DISTRIBUTION ISSUES

The size of the USF has been a major concern for some policy-makers and for carriers that pay into the Fund. As discussed earlier, outlays flowing from the USF have grown substantially over the years; and the overall growth of the Fund is expected to increase even further. These potential sources of future spending growth will be examined now individually.

Competitive ETCs

Following the 1996 Act, the FCC determined that federal universal support should be made available, or “portable,” to all ETCs that provide supported services, regardless of the technology used.⁴⁵ This increased the number of telephone

carriers eligible to receive universal service subsidies. Over the years an increasing number of carriers have applied for ETC status, predominantly wireless providers. Since 2000, the number of has grown from two to 263, and is likely to continue under current ETC guidelines.⁴⁶ Since wireline, wireless, and cable companies may each offer local telephone service in a particular high cost area, all three can potentially qualify as ETCs in that service area and receive universal service funds. The competing carriers only receive funds for those customers they capture; but since a customer can elect to obtain service from more than one carrier at the same time, more than one carrier can receive universal service funding for servicing that customer.⁴⁷ These scenarios increase the total size of the Fund.

In recent years, the increase in the high-cost support component of USF has been due mainly to support for competitive ETCs. USF support to competitive ETCs grew from an estimated \$130 million in 2003 to an estimated \$640 million in 2005. From 2004 to 2005, the amount of competitive ETC support doubled.⁴⁸

The growth in competitive ETC payments, and potential expansion in the next few years, has been a major concern for some. Some analysts have criticized Fund payments to competitive ETCs, contending that it “creates businesses that are founded on ‘regulatory revenues’ rather than on regulatory formulas tied to investment levels (allowed rates of return), and possibly damage[s] the incumbent carriers as customers are siphoned away in already-sparse service areas.”⁴⁹

One of the fundamental questions of USF reform is how to apply discipline to the system of competitive ETCs applying for USF payments. This issue has become politically charged by the competitive carriers, who are vigorously defending the funds that they are receiving or would like to receive. The FCC has recognized this potential problem and is currently examining the issue. The FCC and the Federal-State Joint Board on Universal Service (Joint Board)⁵⁰ over the past few years has increasingly favored stricter standards for ETC designations.⁵¹ In March 2005, the FCC released an order imposing additional requirements to its existing framework, for the resolution of ETC designation requests. The FCC’s order encourages, but does not require, states to use these same guidelines in resolving ETC petitions filed with the States.⁵² Other issues currently being discussed include whether payments should be made for second lines, what methodology should be used for calculating support, and how to further refine the system for designating ETCs.⁵³

One of the arguments put forth by the incumbent local telephone carriers for why they should enjoy superior, or even exclusive, access to the universal service subsidy is that they have “carrier of last resort” responsibility and serve every customer in their service area. Some states that have awarded ETC status to other carriers have tended to require such a commitment from those carriers as well (though there may remain issues of the geographic reach of ETC’s services).

In August 2005, the Joint Board put forth a proposal to use a “reverse auction” to assign universal service funding for high cost areas. The idea is to award high-cost funding to the carrier bidding to offer service at the lowest cost. Under the

proposal, two carriers serving in each service area might win. Both would be required to provide wireless service, while the other would be required to provide broadband connectivity. Proponents contend that it will provide an incentive to carriers that can deliver service more efficiently.

Intercarrier Compensation Reform

The FCC has been conducting an ongoing examination of intercarrier compensation to develop a more unified regime governing payment flows among telecommunications carriers.⁵⁴ Over the years, the FCC has issued various orders addressing issues related to intercarrier compensation. Most recently, it has been reviewing the reform plan filed by the National Association of Regulatory Utility Commissioners' (NARUC's) Task Force on Intercarrier Compensation known as the Missoula Plan.⁵⁵ Uncertainty remains regarding USF and intercarrier compensation reform, particularly as the FCC is currently reviewing the Missoula Plan. Changes to intercarrier compensation could result in a proposal to raise the level of USF to compensate for reductions in funds currently received from access charges.

Broadband Internet Service

Historically, universal service has been limited to basic telephone service. Under current regulations, only schools, libraries and rural health care facilities are eligible to receive universal service support, explicitly for broadband Internet services. Recently, there has been discussion on whether to include broadband services among those that should be subsidized to achieve universal service. The Telecommunications Act does not expressly include access to a broadband network in the definition of universal service; however, one of the principles instructing the FCC and the Joint Board to base policies for the preservation and advancement of universal service does refer to broadband services specifically. The principle reads: "Access to advanced telecommunications and information services should be provided in all regions of the Nation."⁵⁶ The Act does not spell out how this should be accomplished. Congress meant for universal service to be flexible in its ability to encourage growth and adoption of broadband technologies. Section 254 states: "Universal service is an evolving level of telecommunications services that the [FCC] shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services."⁵⁷ To date, the Joint Board and the FCC have not included advanced services in the definition of universal service. Several legislative proposals extending universal service to broadband service have surfaced recently in Congress.

One of the arguments for including access to a broadband network in the USF holds that, while market demand appears to be sufficient to generate deployment of broadband service in many urban areas, without government intervention that may not be possible in rural or other high-cost areas. In those areas, high costs and/or limited demand may render it economically infeasible to deploy multiple broadband networks, or even a single network, without government intervention.

Expansion of the scope of universal service to include universal access to a broadband Internet service at affordable

rates raises several issues. Most fundamentally, what is the level of broadband Internet service that should be provided as part of universal service? Is it reasonable to develop a universal service program that subsidizes multiple services and competitors to serve areas in which costs are prohibitively expensive for even one carrier? One concern is the potential growth in the size of the USF might be exacerbated if the scope of universal service were expanded to include broadband service, since customers would be able to subscribe for services from multiple carriers, with more than one of those carriers becoming eligible for universal service payments. This situation currently exists in high-cost areas served by both wireline and wireless carriers. In addition, some policy makers may object to the goal of universal service providing a choice of broadband providers in high cost rural areas. Many believe this is inconsistent with the main goal of the universal service program to ensure that all consumers, including those in high cost areas, have access to affordable rates for basic local telephone service.

CONCLUDING THOUGHTS: CONGRESSIONAL USF REFORM

A consensus is forming that Congressional legislation will likely be needed to fully address the modifications needed to, not only ensure the viability of universal service, but also address the myriad issues surrounding universal service reform. Members in both the House and the Senate have expressed a desire to address this issue, and it is likely that USF reform will play a key role in any reform policy debate.

The 109th Congress made an attempt to update the nation's communications laws, including universal service in 2005. Members in both the House and Senate proposed legislation reforming USF. Ultimately none of the bills ended up passing both houses. The House passed its communications reform bill, H.R. 5252, on June 8, 2006. Soon after, on June 28th, 2006, the Senate passed its version, S. 2686, to move to the Senate floor. However, it was too controversial to receive time for consideration on the Senate floor and was thus passed over. Congress adjourned for the year without any Senate action on the bill, which effectively killed it and, for a time, universal service reform too. But a bill to reform USF has already been introduced in the 110th session, and more are expected from both House and Senate members.⁵⁸ Reform that addresses distribution issues, however, will be difficult. The fact that any reduction of Fund distributions may adversely impact the current recipients of the funds—namely rural carriers—is a political reality that must be taken into account—particularly as the political power of rural Senators is quite high. Still, Congressional action may be needed for some of the reform options under consideration.

Endnotes

1 Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified at various sections of 47 U.S.C.) (hereinafter sometimes referred to as "1996 Act" or "Telecom Act of 1996").

2 The pace of technological change has been astounding. "Blackberries" are no longer just fruit, and "hot spots" aren't just popular clubs. We have a plethora

of new technologies including WiFi and WiMax for wireless Internet access, Voice-over-Internet-Protocol (VoIP) for telephone service using the Internet, and Broadband Over Powerline (BPL) for Internet access via electric lines.

3 In the current debate on communications policy central issues include reform of the universal service, reform of intercarrier compensation, franchising issues for video providers, and net neutrality, along with a whole host of others.

4 *IMO Universal Service Contribution Methodology*, WC Docket No. 06-122 (rel. June 27, 2006).

5 The Communications Act of 1934, as amended, is codified 47 U.S.C. §§ 151 *et seq.*

6 See 47 U.S.C. § 151 (“One of Congress’s primary purposes in establishing the Federal Communications Commission was to “make available... to all the people of the United States... a rapid, efficient, Nation-wide... communications service with adequate facilities at reasonable charges.”).

7 47 U.S.C. § 254.

8 *Id.*

9 *Id.*

10 *Id.*

11 See 47 U.S.C. § 254(d).

12 This program is commonly known as the “E-rate program.”

13 Since wireline, wireless, and cable companies all may offer local telephone service in a particular high cost area, all three can potentially qualify as “eligible telecommunications carriers” (“ETCs”) in that area and receive universal service funds.

14 *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996).

15 47 U.S.C. § 254(b).

16 47 U.S.C. § 254(b)(4), (5).

17 See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252, 21255, para. 6 (1998).

18 *IMO Universal Service Contribution Methodology*, WC Docket No. 06-122 (rel. June 27, 2006); See *Financing Universal Telephone Service: A CBO Paper* (Congressional Budget Office, March 2005).

19 *Federal-State Joint Board on Universal Service Monitoring Report on Universal Service*, CC Docket 98-202, December 2006 [<http://www.fcc.gov/wcb/stats>].

20 *IMO Universal Service Contribution Methodology*, WC Docket No. 06-122 (rel. June 27, 2006); See *Financing Universal Telephone Service: A CBO Paper* (Congressional Budget Office, March 2005).

21 See *Financing Universal Telephone Service: A CBO Paper* (Congressional Budget Office, March 2005); See *Federal-State Joint Board on Universal Service Monitoring Report on Universal Service*, CC Docket 98-202, December 2006, at <http://www.fcc.gov/wcb/stats>.

22 *Id.*

23 *Id.*

24 See 44 U.S.C. § 254(e). The 1996 Act mandated that universal service support be explicit, thus requiring that many implicit cross-subsidies be recovered through the USF instead.

25 In recent years the increase in the high-cost support component of USF is due to support to competitive ETCs. USF support to competitive ETCs grew from an estimated \$130 million in 2003 to an estimated \$640 million in 2005. From 2004 to 2005 the amount of support doubled. See *Factors That May Increase Future Spending from the Universal Service Fund: A CBO Paper* at ix (Congressional Budget Office, June 2006). See *Federal-State Joint Board on Universal Service Monitoring Report on Universal Service*, CC Docket 98-202, December 2006, at <http://www.fcc.gov/wcb/stats>.

26 *Id.*

27 *Financing Universal Telephone Service: A CBO Paper* (Congressional

Budget Office, March 2005).

28 This downward trend is expected to continue due to increased competition from voice over Internet protocol (VoIP) service, continued substitution of e-mail and other Internet applications for long distance service.

29 See *December 2006 Monitoring Report, Federal/State Joint Board on Universal Service*, Table 1.1, total Telecommunications Industry Revenues, at p. 1-13, released December 5, 2006, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-262986A3.pdf.

30 *IMO Universal Service Contribution Methodology*, WC Docket No. 06-122 (rel. June 27, 2006); See *Financing Universal Telephone Service: A CBO Paper* (Congressional Budget Office, March 2005).

31 Digital Subscriber Line Service is the high-speed Internet service offered by local phone companies.

32 To prevent a disruption of markets, the FCC created a 270 day transition period during which the DSL revenues would continue to be treated as interstate telecommunications service revenues for the purposes of funding universal service. In addition, because blanket re-classification of DSL to information service would, under current rules relating to National Exchange Carrier Association (NECA) tariffs and pools that help fund universal service, reduce the universal service support available to certain rural telephone companies for the provision of DSL services, those carriers were given the option of continuing to treat DSL as a common carrier (telecommunications) service.

33 See generally *2001 Notice*, 16 FCC Rcd 9892.

34 See generally *First Further Notice*, 17 FCC Rcd. 3752; *Second Wireless Safe Harbor Order*, 17 FCC Rcd at 24983-95; *Commission Seeks Comment on Staff Study Regarding Alternative Contribution Methodologies*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, Public Notice, 18 FCC Rcd 3006 (2003).

35 *IMO Universal Service Contribution Methodology*, WC Docket No. 06-122, at 4 (rel. June 27, 2006).

36 *Id.* The FCC raised the wireless safe harbor percentage from 28.5 percent to 37.1 percent of total end-user telecommunications revenue. This interim wireless safe harbor was last updated in 2002. Wireless carriers continue to retain the option to base contributions on their actual revenues or on traffic studies that estimate their actual interstate revenues.

37 *Id.* The FCC established a safe harbor percentage of interstate revenue at 64.9 percent of total VoIP service revenue. Interconnected VoIP providers may also calculate their interstate revenues based on their actual revenues or by using traffic studies.

38 *IMO Universal Service Contribution Methodology*, WC Docket No. 06-122, at 4 (rel. June 27, 2006).

39 *Financing Universal Telephone Service: A CBO Paper* (Congressional Budget Office, March 2005).

40 In *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999), cert. denied, 120 S. Ct. 2212 (2000).

41 Federal Communications Comm’n, *Report and Order and Notice of Proposed Rulemaking*, FCC 06-94, adopted June 21, 2006, at 14.

42 *Id.*

43 *Id.*

44 *Id.* at 13-14.

45 *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 22946 (1997); *Promoting Deployment and Subscribership in Unserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, CC Docket No. 96-45, 15 FCC Rcd 12208 (2000).

46 See *Factors That May Increase Future Spending from the Universal Service Fund: A CBO Paper* at ix (Congressional Budget Office, June 2006).

47 Typically, customers do not receive basic telephone service from both the local telephone company and the local cable operator, so it is unlikely that those two carriers would each receive universal service funds for serving the same customer. But many customers do receive both wireline service (from a telephone company or a cable operator) and wireless service, and in that case,

both the wireline and the wireless service provider would receive the universal service subsidy.

48 See *Factors That May Increase Future Spending from the Universal Service Fund: A CBO Paper* at ix (Congressional Budget Office, June 2006). See *Federal-State Joint Board on Universal Service Monitoring Report on Universal Service*, CC Docket 98-202, December 2006, at <http://www.fcc.gov/wcb/stats>.

49 *Universal Service Financial Analysis*, Legg Mason, June 25, 2004, at 7.

50 The Federal-State Joint Board on Universal Service was established in March 1996, to make recommendations to implement the universal service provisions of the 1996 Act. This Joint Board is comprised of FCC Commissioners, State Utility Commissioners, and a consumer advocate representative.

51 *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 20 FCC Rcd 6371 (2005).

52 *Id.* Competitors must obtain ETC status from the relevant State Commission (or the FCC in cases where the State commission lacks jurisdiction to make the ETC designation). Section 214(e)(6) of the Communications Act of 1934, as amended permits the FCC to designate a carrier as eligible to receive federal universal service support under section 214(e)(1) if the carrier is not subject to the State Commission's jurisdiction.

53 *Id.*

54 The term "intercarrier compensation" refers to the charges that one carrier pays to another carrier to originate, transport, and/or terminate telecommunications traffic.

55 See *Comment Sought on Missoula Intercarrier Compensation Reform Plan*, CC Docket No. 01-92, Public Notice (July 25, 2006).

56 47 U.S.C. § 254.

57 *Id.*

58 Senator Ted Stevens (R-AK) introduced S.101, the Universal Service for Americans Act on January 5, 2007. Reps. Rick Boucher (D-VA) and Lee Terry (R-NE) are expected to reintroduce this year an updated version of the USF reform bill they filed last session.

