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ANALYSIS OF A CHANGING INDUSTRY

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NEW YEAR BRINGS FOURTH INSTALLMENT OF UNIVERSAL SERVICE ORDER: FCC ISSUES FUTHER RULINGS AND CLARIFICATIONS

On December 30, 1997, the Federal Communications Commission (FCC), released the *Fourth Order on Reconsideration* in connection with its ongoing Universal Service proceeding. In the 195-page Order, the FCC clarified and made further rulings regarding a number of issues. Following, JSI provides a summary review of the issues the FCC considered:

Formula Changed For Loop-Based USF Corporate Expense Cap

The loop-based Universal Service Fund (USF) corporate expense cap formula has been refined once again. The changes affect both the smallest local exchange carriers (LECs) ö by increasing the minimum allowable corporate expenses (Accounts 6710 and 6720) ö and LECs with between 17,988 and 18,006 access lines ö through additional formula changes. The revised formulas for monthly support are as follows:

> *(A) For study areas with 6,000 or fewer working loops, the amount per working loop shall be $31.188 - (.0023 x the number of working loops), or, $25,000 ¸ the number of working loops; whichever is greater;*
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> *(B) For study areas with more than 6,000 and fewer than 18,006 working loops, the amount per working loop shall be $3.588 + (82,827.60 ¸ the number of working loops); and,*
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> *(C) For study areas with 18,006 or more working loops, the amount per working loop shall be $8.188.*

Services Designated for Support

In defining the services designated for USF support, the FCC had previously identified *voice grade access to the public switched network,* with a bandwidth frequency range of 400 Hertz to 4000 Hertz. The Commission has changed the requirement to be "at a minimum, 300 to 3,000 Hertz."

Toll Limitation for Low-Income Consumers

The FCC originally required that carriers be able to provide both toll blocking and toll control (the ability of a LEC to limit a customerâs toll service to a predetermined threshold) to low-income consumers, subject to waiver, as a prerequisite to being designated as an eligible telecommunications carrier (ETC) and to receive universal service support. Recognizing that toll control is a service that is currently not technically feasible, the FCC has decided to require either toll blocking or toll control, but not both. A carrier that cannot provide any toll-limitation service will be required to seek a waiver from its state commission to be designated as eligible for support.

Carriers Eligible for Support

The FCCâs original rules required that to receive universal service support after January 1, 1998, a LEC would have to be designated by its state commission as an ETC prior to 1998. In its December Order, the FCC relaxed the requirement somewhat by allowing retroactive designation under certain circumstances. The rule provision is as follows:

> *A state commission that is unable to designate as an eligible telecommunications carrier, by January 1, 1998, a carrier that sought such designation before January 1, 1998, may, once it has designated such carrier, file with the Commission a petition for waiver of paragraph (a)(1) of this section requesting that the carrier receive universal service support retroactive to January 1, 1998. The state commission must explain why it did not designate such carrier as eligible by January 1, 1998, and provide a justification for why providing support retroactive to January 1, 1998, serves the public interest.*

Local Switching Support

In its original Order, the FCC had required that LECs with fewer than 50,000 access within their study areas remove the local switch weighting factor (DEM weighting) revenue requirement from recovery through access and recover these costs through a local switching support mechanism. At the time, the FCC did not define how the level of support should be determined, nor if the amount calculated should be subject to true-up. In its December 30 Order, the FCC prescribed an algorithm intended to derive the support level. The algorithm is based on a USAC (Universal Service Administration Co.) proposal in its earlier filing. The FCC also confirmed its expectation that the local switching support levels are to be based on projected levels and will be subject to true-up, which must take place within 15 months of the conclusion of each study period.

Local Switching Support for Average Schedule LECs

The FCC has clarified that it will require the USF administrator to submit, on an annual basis, a formula that is to be approved by the Commission, which simulates the disbursements that would be received by a company that is representative of average schedule companies.

Long-Term Support

The FCC clarified its intent regarding the determination of the level of long-term support. As expected, long-term support will, for all practical purposes, continue to be transparent to LEC members of the National Exchange Carrier Association (NECA) Common Line Pool. The FCC reiterated that an incumbent LECâs (ILECâs) continued membership in the NECA Common Line Pool is required for the ILEC, or any competitive ETC serving the ILECâs former customers, to receive payment of support comparable to long-term support in a given service area.

The FCC also reaffirmed that it will not permit rural carriers to receive universal service support, beginning January 1, 1999, based on a forward-looking economic cost mechanism that will be adopted for non-rural carriers sometime in 1998.

Support Provisions For Schools, Libraries, and Rural Health Care Providers

The FCC clarified a number of points applicable to its universal service programs for schools, libraries, and rural health care providers. Key matters clarified by the FCC include:

- *Lowest Corresponding Price (LCP)*: The FCC concluded that for purposes of calculating the LCP, a provider will not be required to match a price that it offered to a customer under a special regulatory subsidy or that appeared in a contract negotiated under very different conditions. Therefore, to the extent a LEC has a tariffed rate for a particular service already discounted for a school or library, it would not have to consider the tariffed rate as the LCP.

- *Existing Contracts*: The FCC concluded that a contract of any duration signed on or before July 10, 1997 will be considered an existing contract and therefore exempt from the competitive bid requirement for the life of the contract. Contracts signed after July 10 and before the date on which the Schools and Libraries Corp. website is fully operational will be eligible for support and exempt from the competitive bid requirement for services provided through December 31, 1998. The same rules apply to rural health care providers. However, schools, libraries, and rural health care providers will still be required to file the appropriate applications each year in order to receive universal service discounts.

- *Payments to Service Providers*: The FCC urged schools, libraries and rural health care providers to include clauses in their contracts with service providers that make implementation of the agreements contingent on the commitment of universal service funding since all charges are ultimately the responsibility of the eligible entity.

Contributions to Support Universal Service Programs

The FCC clarified that non-profit schools, colleges, universities, libraries, and health care providers; broadcasters of video programming; and system integrators that derive less than 5 percent of their systems integration revenues from the resale of telecommunication, will not be required to contribute to the universal service programs

The FCC also will not require an entity to contribute to the universal service programs if its annual estimated contribution will be less than $10,000, rather than $100, as the FCC originally had ordered.

Access Charge Reform: Imposition of Higher SLCs and the PICC

Among the provisions of its May 7, 1997 Access Charge Reform Order, the FCC imposed higher subscriber line charges (SLCs) on non-primary residential and multiline business lines and established a primary interexchange carrier charge (PICC) to defray some of the common line costs, both effective January 1, 1998. These changes are only applicable to price-cap companies. We mention this because the Bell operating companies have publicized that they have had to increase the SLCs and impose the PICC, and this has caused some confusion among JSI clients.

If you have questions about the FCCâs latest order on universal service, or would like to discuss how the universal service provisions may affect your operations, please call JSI staff at any of our four offices.

1998 Management Seminars To Investigate Impact of Federal Policies On States, Identify Competitive Business Response

The coverage of the FCCâs most recent rulings on universal service in this issue of *News and Commentary* serves as an appropriate sampling of the content planned for JSIâs 1998 Management Seminars. The session, "Capitalizing on Change: The Transition Continues," will focus on how federal policy actions on such issues as universal service, access reform, and number portability promise to play out at the state level. Equally important, JSI staff will review competitive, cultural, and public relations strategies designed to help clients identify their options to take best advantage of the restructured telecommunications marketplace. From all angles ö local, regional, and statewide ö JSIâs annual management seminars in 1998 come at an especially critical time in the industryâs transition to competition.

The complete series of JSIâs 1998 Management Seminars, which will follow our traditional afternoon-and-following-morning schedule, is:

• Desmond Hotel, Albany	Jan. 22-23
• Hyatt Regency, San Antonio	Jan. 27-28
• Minneapolis Airport Marriott, Bloomington	Jan. 29-30
• Atlanta Airport Marriott	Feb. 2- 3; and, Feb. 4-5

To register for the seminar, or for more information on the program or hotel reservations, contact Seminar Administrator Kim Johnson, at JSIâs Seabrook, MD headquarters, at 301-459-7590.
