LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

LOUISIANA PUBLIC SERVICE COMMISSION, EX PARTE

Docket Number R-30480 In Re: Review of the Existing State Universal Service Fund as Established by LPSC General Order dated April 29, 2005, as amended May 18, 2005.

(Decided at the December 11, 2008 Business and Executive Session)
(Supersedes the General Order dated May 18, 2005 and Amends the Commission's Local Competition Regulations, as attached.)

I. Background and Overview

Universal service and the elements that comprise Universal Service in Louisiana were first defined by the Louisiana Public Service Commission ("the Commission" or "LPSC") in the Commission's General Order dated May 22, 1995, and memorialized in the Commission's Regulations for Competition in the Local Telecommunications Markets, as amended ("Local Competition Regulations"). In Docket No. U-20883, Subdocket C, a docket originally opened to address SUSF, the Commission assessed the status of the LOS Preservation Plan and evaluated how the LOS calling plans should be treated in the context of universal service. As part of its evaluation of the rural ILECs' LOS calling plans, Staff conducted analyses and examined rural carrier usage, penetration, and cost data. Staff also sought industry input in universal service policy, including funding mechanisms and carrier eligibility. The Commission voted at its March 2005 Business and Executive Session to adopt Staff's Recommendation, with modification, memorialized by the Commission's General Order dated April 29, 2005 ("General Order"). Additionally, the Commission voted to conduct an annual review of the status of State Universal Service – commencing in 2006 and based upon 2005 carrier data – in lieu of the Staff-recommended triennial review.

A. Staff's Annual Review

Consistent with the directive, (but delayed due to the effects of Hurricanes Katrina and Rita), Staff began to examine individual carrier usage, penetration, and cost data from 2005 and 2006 in order to comply with the monitoring provisions of the Commission's General Order. In a November 2007 report to the Commission, Staff noted that there is likely to be a need for State universal service support as long as the Commission obligates the rural incumbent local exchange carriers to serve as carriers of last resort and deploy networks so as to provide service on a ubiquitous basis. Staff further noted that the existing SUSF monitoring program did not address the rural ILECs' obligations and commitments to deploy their networks ubiquitously throughout their service territories and provide carrier of last resort obligations. Staff recommended that the Commission undertake a study on the best way to convert the existing SUSF monitoring program to a stable funding mechanism.

Staff presented the report to the Commission at its November 8, 2007 Business & Executive Session. Following presentation of the report, the Commission directed Staff to open a docket to determine the best method for converting the existing SUSF to a more stable funding mechanism. Pursuant to that directive, Staff opened Docket No. R-30480.

B. Docket No. R-30480

Staff prepared a proposed list of issues that should be addressed in establishing the stable funding mechanism. Staff distributed the proposed issues list to interested parties on April 18, 2008 and requested their input on the most efficient and cost effective method to convert the existing monitoring program to a stable funding mechanism. A total of nine parties submitted comments on June 6, 2008 in response to Staff's request: the collective interests of AT&T, the Louisiana Cable and Telecommunications Association ("LCTA"), Cox Louisiana Telecom, LLC ("Cox"), the collective interests of Sprint Nextel ("Sprint"), T Mobile Carrier, LLC ("T Mobile"), the collective interests of Verizon, Competitive Carriers of the South ("CompSouth"), the Bayou Telephone Company ("Bayou")[1], and the Small Company Committee of the Louisiana Telecommunications Association ("SCC"). As set forth in the April 18, 2008 filing, comments were sought on the following issues:

Issue No. 1
The telecommunications marketplace has benefited from significant and multiple technological advances since the introduction of the Telecommunications Act of 1996. The breadth of services currently offered by service providers reflects that innovation. In light of the increasing portfolio of enhanced services available to end users, should the Commission expand its definition of services that qualify for State Universal Service funding (i.e. LOS and LOS-like services) to include advanced telecommunications services? Additionally, should a carrier be allowed to satisfy its state universal service obligations through the use of alternative technology?

Issue No. 2
What are the appropriate measurements and evaluations that should be undertaken to determine whether LOS or LOS-like services, or an expanded definition of services, continue to qualify as essential services for State Universal Service funding (e.g. amount of usage, customer subscribership levels, costs of maintaining and upgrading their network to provision such services, etc.)?

Issue No. 3
What are the appropriate criteria for designating carriers as Essential Telecommunications

[1] The comments of the Bayou Telephone Company were reviewed by Staff. Since it was unclear whether these comments were formally filed with the Commission or available to the other parties to the docket, a copy of the comments was attached to Staff's Preliminary Recommendation.

Carriers for State Universal Service funding purposes? Should these criteria include an obligation to serve such as traditional Carrier of Last Resort obligations as provided in Section 601 of the LPSC local competition regulations? Should the designation “Essential Telecommunications Carrier” be re-named to alleviate any potential confusion that exists with the Federal “Eligible Telecommunications Carrier” designation?

Issue No. 4
What are the appropriate obligations of carriers designated as Essential Telecommunications Carriers for State USF funding purposes?

Issue No. 5
What are the appropriate designation criteria and obligations of carriers designated as carriers of last resort?

Issue No. 6
Should additional classes of service providers, namely VoIP carriers, be required to contribute to the State Universal Service Fund?

Issue No. 7
Should carrier revenues (e.g. intrastate retail telecommunications revenues) be adopted as the base on which to assess contributions to the State Universal Service Fund or should an alternative contribution base such as a number or connection-based approach be used?

Issue No. 8
AT&T currently operates as the sole non-rural incumbent local exchange carrier in Louisiana. The distinctions in financial profile, cost structure, and operating characteristics between rural ILECs and non-rural ILECs have long been recognized by federal and state regulatory authorities. In recognition of the inherent differences between the two types of carriers, should there be a fund designed to satisfy the universal service needs of the rural carriers and a separate fund established for the non-rural ILEC (i.e. AT&T)?

Issue No. 9
Is it appropriate to continue to use embedded costs in order to determine the universal service funding needs of the rural carriers?

Issue No. 10
If it is determined that funding is appropriate, should the universal service funding levels of AT&T be determined through the use of a forward-looking economic cost study such as the one relied upon by the Federal Communications Commission? If not, what other method could be used to determine support?

Issue No. 11
Should the average loop costs of the incumbent local exchange carrier be the basis upon which universal service support disbursements are made? If so, what is the appropriate loop cost benchmark to determine disbursements to the rural carriers? Should there be a different loop cost benchmark for determining the disbursements to the non-rural carrier?

Issue No. 12
What criteria or mechanisms should the Commission consider to mitigate or offset any adverse effects on the Rural ILECs’ ability to satisfy their service obligations that may result from an expanded definition of essential services and/or the implementation of the stable funding mechanism under the SUSF?

Issue No. 13
Should the per line support provided to the incumbent local exchange carrier through the State Universal Service Fund be the amount of universal service support transferred to a competitive carrier if a competitive carrier becomes certificated as an Essential Telecommunications Carrier for State USF funding?

Issue No. 14
Should a competitive Essential Telecommunications Carrier be required to file its own cost data

to support any application for a withdrawal from the State USF? If so, what type of cost data should the competitive Essential Telecommunications Carrier be required to file?

Issue No. 15
If a Competitive Essential Telecommunications Carrier becomes designated by the Commission to receive State Universal Service funding in a particular service territory, what is the most equitable approach for the incumbent local exchange carriers to recover their embedded costs incurred over the years in providing the mandated universal services and satisfying the Commission's carrier of last resort obligations?

Issue No. 16
What measures, if any, should be implemented to cap the State Universal Service Fund in light of increasing average loop costs?

Issue No. 17
What reporting requirements should the Commission order to ensure that recipient carriers have appropriately used SUSF support?

Issue No. 18
The Fund Administrator has been selected by the Commission through a competitive bid process. Should the same Fund Administrator manage and administrate both State Universal Service Funds in the event a separate fund is established for the non-rural ILEC?

Issue No. 19
Should AT&T be allowed to sunset its Carrier of Last Resort Obligations in Zones 1 and 2 as requested?

Issue No. 20
Should the definition of universal service, and the elements that comprise it, be modified?

Issue No. 21
Should the LPSC look to other State USFs for guidance in addressing these issues? If a commenter has examples of components of SUSFs in other jurisdictions that it believes would be beneficial in Louisiana, Staff welcomes said information.

C. Jurisdiction

The powers and duties of the Louisiana Public Service Commission are contained in Article IV §21 of the Louisiana Constitution of 1974. As stated therein, the Commission has the authority to:

> "regulate all common carriers and public utilities and has all other regulatory authority as provided by law. The Commission shall adopt and enforce reasonable rules, regulations and procedures which are necessary for the discharge of its duties including other powers and duties as provided by law."

Pursuant to its constitutional authority, the Commission adopted the Local Competition Regulations referenced throughout this Recommendation. As stated in the Preamble to the Regulations,

> The Commission imposes these Regulations for competition within local service areas in order to encourage competitive entry, **preserve and advance universal service**, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by

> telecommunications services providers are just and reasonable. (Emphasis added.)

As previously stated herein, Section 501 of the Commission's Local Competition Regulations contains the definition of Universal Service and provides as follows:

> A. The Commission incorporates and restates herein the definition of Universal Service as adopted by the Commission in General Order dated May 22, 1995 and as amended herein:
>
> "The Commission hereby defines universal service to consist of the following:
> 1. Residential and single-line business access to the local exchange network, including usage and measured usage within the local service area.
> 2. Touchtone capability.
> 3. White page directory listing (residential and business).
> 4. Access to directory assistance (local).
> 5. Directory distribution (publication and distribution of at least one annual local directory).
> 6. Access to 911 service (where established by La. R.S. 45:791 et seq.).
> 7. Affordable line connection (for service initiation).
> 8. Access to long distance carriers and operator services.
> 9. Access to the telephone relay system.
> 10. Access to customer support services, including billing.
> 11. Access to a calling plan for a local service area sufficiently large to encompass a user's community of interest (but no greater than 40 miles).
>
> B. The Commission hereby declares that the definition of universal service shall be subject to modification by the Commission as technology and customer needs change. Also, the Commission reserves the right to modify the definition of universal service as a result of any FCC and/or federal decrees, orders, or legislation.

The Commission established an explicit State Universal Service Fund in the April 25, 2005 General Order. The Commission is delegated the authority to establish such a fund pursuant to its Constitutional authority, and Section 254(f) of the 1996 Telecommunications Act[2], which provides as follows:

> "**State Authority**: A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms."

The existing SUSF, established by the April 25, 2005 General Order, was found to be consistent with the Louisiana Constitution and the Telecommunications Act by the Louisiana Supreme Court, which held:

[2] 47 USC § 254(f).

After a thorough review of LPSC's General Order dated April 29, 2005, we conclude that the implementation of the SUSF is consistent with the Louisiana Constitution as well as with the Telecommunications Act of 1996. Because the LPSC's order is accorded great weight, it may not be overturned absent an affirmative showing that the decision was arbitrary, capricious or a clear abuse of discretion or not based on the factual evidence presented.[3]

II. Staff's Review of Comments and Recommendation

Based upon its analysis and the comments of the parties, Staff developed and issued a preliminary set of recommendations on October 3, 2008. The parties to the proceeding were invited to respond to Staff's Preliminary Recommendations with a second set of comments by October 27, 2008. AT&T, the LCTA, Cox, Sprint, the collective interests of Centennial ("Centennial"), Verizon, and the Small Company Committee submitted comments on October 27, 2008 in response to Staff's Preliminary Recommendations. The LCTA adopted the comments of Cox for each specific issue. Therefore, the comments of Cox were presented as a single response for both parties. Centennial did not respond directly to any specific issue but rather offers a broader set of comments regarding the provision of universal service and carrier eligibility for support through the SUSF. Staff noted that AT&T recently announced that it was acquiring Centennial.

In addition to its review of these comments, Staff noted that The Bayou Telephone Company filed general comments as part of the initial round of comments submitted on June 6, 2008. In those comments, Bayou described its unique situation and its need for State universal service support. Bayou provides service in a rural area of Saint Martin Parish to only 52 customers. Staff recommended that due to its unique and isolated situation, a separate analysis to determine Bayou's need for State universal service support be conducted on an individual case basis. Once the Company's eligibility and need for SUSF funding is determined by the Staff, any annual support will be included as part of the overall SUSF funding level.

In addition to the above recommendation concerning Bayou, and for the reasons set forth in Staff's Preliminary and Final Recommendations, Staff issued a Final Recommendation on December 2, 2008 recommending the following:

1. Staff recommends that the Commission's current definition of universal service, as defined in Section 501(A), be modified according to the Staff Final Recommendation on Issue No. 4. Staff does not recommend that the Commission's definition of universal service be expanded to include advanced telecommunications services at this time.

[3] *Voicestream GSM 1 Operating Co., LLC v. Louisiana Public Service Com'n*, 943 So.2d 349,362.

Any carrier deemed eligible to draw from the SUSF, ie. a facilities-based provider that can fulfill the Commission-mandated Carrier of Last Resort obligations, may provide the universal service offerings on a technology-neutral basis.

2. Staff recommends that the revised SUSF support mechanism be based upon specific and verifiable cost data. To that end, the Commission should adopt the following formula to determine the need of a qualifying carrier for Louisiana SUSF support:

   a. The cost data currently submitted by the rural ILECs to the National Exchange Carrier Association ("NECA") and filed with the federal Universal Service Administration Company ("USAC") pursuant to 47 C.F.R. §36.611 is readily available and verifiable. The Louisiana SUSF Administrator should use the cost data that includes the annual filing of un-separated (i.e. State and Interstate) loop costs revenue requirements per loop that are applicable to the rural ILECs' federal universal service support study areas.

   b. In order to avoid double recovery, the Louisiana SUSF Administrator should subtract the per loop federal high-cost universal service loop support each rural ILEC received during the twelve months ended December 31^{st} of the preceding year from the un-separated per loop revenue requirements.

   c. The Louisiana SUSF Administrator should deduct an additional amount of $276.00 per loop in order to recognize the responsibility of each eligible carrier to fund a portion of its network infrastructure loop costs through local rates and other revenues. Staff does not recommend that the rural ILECs' unrecovered local switching support be eligible for recovery through the SUSF at the outset of the implementation of the revised support mechanism.

3. Staff recommends that the receipt of State universal service support should be limited to a single carrier in a single study area who provides the mandated services pursuant to Sections 501 and 601 of the Commission's Local Competition Regulations. Staff further recommends that the term "Essential Telecommunications Carrier" should be replaced with "Carrier of Last Resort."

4. Staff recommends that the existing obligations, as found in Section 601 of the Commission's Local Competition Regulations, should continue to serve, without modification, as the appropriate obligations of carriers designated as Carriers of Last Resort for State universal service funding purposes.

   The elements of universal service as defined in Section 501(A) should be replaced with the following set of elements:

   1. Voice grade access to the public switched network;
   2. Touchtone capability;
   3. White page directory listing;
   4. Access to directory assistance;
   5. Directory distribution (publication and distribution of at least one annual local directory);
   6. Access to emergency services;
   7. Access to long distance carriers and operator services;
   8. Access to telephone relay services;
   9. Access to 8XX services; and
   10. Lifeline rate for eligible customers.

5. Staff recommends that the existing designation criteria and obligations specified in Sections 501 and 601 of the Commission's Local Competition Regulations are the appropriate set of requirements to fulfill for carriers seeking Carrier of Last Resort designation.

6. Staff recommends that all VoIP providers, or any other carriers utilizing IP technologies, that meet the FCC definition of "interconnected VoIP services" as found in 47 CFR §9.3 should contribute to the SUSF. The intrastate traffic of these carriers should be identified based upon the FCC's safe harbor rule. If an interconnected VoIP provider can identify and record the jurisdictional nature of its own traffic, then the provider will be permitted to submit its own actual data in order to overcome the presumption of intrastate traffic found in the FCC's safe harbor rule and the SUSF assessments shall be based on the carriers' actual intrastate traffic.

7. Should the FCC switch to a numbers-based system, the Commission should monitor whether that decision delivers the anticipated benefits. In the event that the Commission elects to mirror any change in the FCC contribution approach, the LPSC should adopt the same timetable as the FCC to transition to the new methodology in order to minimize administrative burdens upon contributing carriers. In the absence of any change in the FCC contribution approach, the Staff recommends that the Commission continue to use intrastate end user revenues as the basis for contributions to the SUSF.

8. A separate SUSF for the non-rural ILEC should not be established. The non-rural ILEC need, if any, for SUSF support can be determined within a single fund applying appropriate eligibility criteria to AT&T. The Staff does not recommend any SUSF support for AT&T at this time.

9. Staff recommends that the need for SUSF support for the rural ILECs and, due to its unique circumstances, Bayou Telephone Company, be determined based upon each carrier's embedded costs.

10. SUSF support for the non-rural ILEC is not necessary for the reasons set forth in Staff's Preliminary and Final Recommendations.

11. Staff recommends that a statewide level of SUSF support be developed by calculating each rural ILEC's need for support according to Staff's Final Recommendation on Issue No. 2. A pooling mechanism should be implemented to distribute the statewide level of support to each rural ILEC so that each carrier continues to receive a consistent level of support based upon its percentage of the 2008 total SUSF amount on an annualized basis.

12. Staff recommends that only the facilities-based Carrier of Last Resort for a study area should be able to draw from the SUSF. Should the existing Carrier of Last Resort petition the Commission to be relieved of its COLR obligations, the best process to determine the level of support required by the ensuing COLR, if any, can be decided upon at that time.

13. Staff recommends that only the facilities-based Carrier of Last Resort for a study area be eligible to draw from the SUSF. If at some point in the future the Commission decides to designate a competitive carrier as the Carrier of Last Resort for a given study area, the carrier should submit an embedded cost study as well as a forward-looking cost study to assist in the determination of the need for SUSF support.

14. If a rural ILEC is relieved of its Carrier of Last Resort obligations, the Commission should grant the carrier retail pricing flexibility in order to allow for recovery of its embedded costs.

15. Staff recommends that a cap should be established on the SUSF support provided through the fund. The level of support should be capped at the amount calculated in the first test period using the new cost and benchmark mechanisms recommended herein.

16. Staff recommends that the reporting requirements of the federal high cost program be applicable to the rural ILECs as recipients of the SUSF support.

17. AT&T, as the non-rural ILEC, does not meet the eligibility criteria for SUSF support for the reasons set forth above and in Staff's discussion leading to its Preliminary Recommendations. Therefore, there will be no need to manage separate a SUSF for the rural ILECs and for the non-rural ILEC. Staff recommends that an administrator be retained through a competitive bidding process to oversee and administrate the SUSF.

18. Staff recommends that the Commission consider relaxing the COLR obligations of AT&T in Zones 1 and 2 as well as phasing-in retail pricing flexibility in those zones.

III. Commission Consideration and Decision

Staff's Recommendation was considered by the Commission at its December 10, 2008 Business and Executive Session. On motion of Commissioner Blossman, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendations 1 through 18 as read into the record. Further, as Staff has recommended we consider relaxing the "COLR" obligations of AT&T in Zones 1 and 2, Commissioner Blossman directed AT&T to file into the record of Docket R-30480 the competitive data referenced in its October 27, 2008 comments. All parties of record in Docket R-30480 shall be provided electronic copies of the data and shall have 15 days to file comments on it and Staff's Recommendation that the "COLR" obligations should be reviewed. Staff will issue a Final Recommendation for the Commission's consideration at its January Business and Executive Session with respect to AT&T's request.

IT IS HEREBY ORDERED THAT:

1. The Commission's current definition of universal service, as defined in Section 501(A), shall be modified according to the Staff Final Recommendation on Issue No. 4. The Commission's definition of universal service shall not be expanded to include advanced telecommunications services at this time.

   Any carrier deemed eligible to draw from the SUSF, i.e. a facilities-based provider that can fulfill the Commission-mandated Carrier of Last Resort obligations, may provide the universal service offerings on a technology-neutral basis.

2. The revised SUSF support mechanism shall be based upon specific and verifiable cost data. To that end, the Commission should adopt the following formula to determine the need of a qualifying carrier for Louisiana SUSF support:

   a. The cost data currently submitted by the rural ILECs to the National Exchange Carrier Association ("NECA") and filed with the federal Universal Service Administration Company ("USAC") pursuant to 47 C.F.R. §36.611 is readily available and verifiable. The Louisiana SUSF Administrator should use the cost data that includes the annual filing of un-separated (i.e. State and Interstate) loop costs revenue requirements per loop that are applicable to the rural ILECs' federal universal service support study areas.

   b. In order to avoid double recovery, the Louisiana SUSF Administrator should subtract the per loop federal high-cost universal service loop support each rural

ILEC received during the twelve months ended December 31st of the preceding year from the un-separated per loop revenue requirements.

c. The Louisiana SUSF Administrator should deduct an additional amount of $276.00 per loop in order to recognize the responsibility of each eligible carrier to fund a portion of its network infrastructure loop costs through local rates and other revenues. Staff does not recommend that the rural ILECs' unrecovered local switching support be eligible for recovery through the SUSF at the outset of the implementation of the revised support mechanism.

d. Staff recommends that the receipt of State universal service support should be limited to a single carrier in a single study area who provides the mandated services pursuant to Sections 501 and 601 of the Commission's Local Competition Regulations. Staff further recommends that the term "Essential Telecommunications Carrier" should be replaced with "Carrier of Last Resort."

e. Staff recommends that the existing obligations, as found in Section 601 of the Commission's Local Competition Regulations, should continue to serve, without modification, as the appropriate obligations of carriers designated as Carriers of Last Resort for State universal service funding purposes.

3. The elements of universal service as defined in Section 501(A) should be replaced with the following set of elements:

   a. Voice grade access to the public switched network;

   b. Touchtone capability;

   c. White page directory listing;

   d. Access to directory assistance;

   e. Directory distribution (publication and distribution of at least one annual local directory);

   f. Access to emergency services;

   g. Access to long distance carriers and operator services;

   h. Access to telephone relay services;

   i. Access to 8XX services; and

   j. Lifeline rate for eligible customers.

4. The existing designation criteria and obligations specified in Sections 501 and 601 of the Commission's Local Competition Regulations are the appropriate set of requirements to fulfill for carriers seeking Carrier of Last Resort designation.

5. All VoIP providers, or any other carriers utilizing IP technologies, that meet the FCC definition of "interconnected VoIP services" as found in 47 CFR § 9.3 should contribute to the SUSF. The intrastate traffic of these carriers should be identified based upon the FCC's safe harbor rule. If an interconnected VoIP provider can identify and record the jurisdictional nature of its own traffic, then the provider will be permitted to submit its own actual data in order to overcome the presumption of intrastate traffic found in the FCC's safe harbor rule and the SUSF assessments shall be based on the carriers' actual intrastate traffic.

6. Should the FCC switch to a numbers-based system, the Commission shall monitor whether that decision delivers the anticipated benefits. In the event that the Commission elects to mirror any change in the FCC contribution approach, the LPSC shall adopt the same timetable as the FCC to transition to the new methodology in order to minimize administrative burdens upon contributing carriers. In the absence

of any change in the FCC contribution approach, the Commission shall continue to use intrastate end user revenues as the basis for contributions to the SUSF.

7. A separate SUSF for the non-rural ILEC shall not be established. The non-rural ILEC need, if any, for SUSF support can be determined within a single fund applying appropriate eligibility criteria to AT&T. AT&T shall not be eligible for any SUSF support at this time.

8. The need for SUSF support for the rural ILECs and, due to its unique circumstances, Bayou Telephone Company, shall be determined based upon each carrier's embedded costs.

9. SUSF support for the non-rural ILEC is not necessary for the reasons set forth in Staff's Preliminary and Final Recommendations.

10. A statewide level of SUSF support shall be developed by calculating each rural ILEC's need for support according to Staff's Final Recommendation on Issue No. 2. A pooling mechanism shall be implemented to distribute the statewide level of support to each rural ILEC so that each carrier continues to receive a consistent level of support based upon its percentage of the 2008 total SUSF amount on an annualized basis.

11. Only the facilities-based Carrier of Last Resort for a study area shall be able to draw from the SUSF. Should the existing Carrier of Last Resort petition the Commission to be relieved of its COLR obligations, the best process to determine the level of support required by the ensuing COLR, if any, can be decided upon at that time.

12. Only the facilities-based Carrier of Last Resort for a study area shall be eligible to draw from the SUSF. If at some point in the future the Commission decides to designate a competitive carrier as the Carrier of Last Resort for a given study area, the carrier should submit an embedded cost study as well as a forward-looking cost study to assist in the determination of the need for SUSF support.

13. If a rural ILEC is relieved of its Carrier of Last Resort obligations, the Commission shall grant the carrier retail pricing flexibility in order to allow for recovery of its embedded costs.

14. A cap shall be established on the SUSF support provided through the fund. The level of support shall be capped at the amount calculated in the first test period using the new cost and benchmark mechanisms recommended herein.

15. The reporting requirements of the federal high cost program shall be applicable to the rural ILECs as recipients of the SUSF support.

16. AT&T, as the non-rural ILEC, does not meet the eligibility criteria for SUSF support for the reasons set forth above and in Staff's discussion leading to its Preliminary Recommendations. Therefore, there will be no need to manage separate a SUSF for the rural ILECs and for the non-rural ILEC. Staff recommends that an administrator be retained through a competitive bidding process to oversee and administrate the SUSF.

17. The Commission shall consider relaxing the COLR obligations of AT&T in Zones 1 and 2 as well as phasing-in retail pricing flexibility in those zones.

18. AT&T is directed to file into the record of Docket R-30480 the competitive data referenced in its October 27, 2008 comments. All parties of record in Docket R-30480 shall be provided electronic copies of the data and shall have 15 days to file comments on it and Staff's Recommendation that the "COLR" obligations should be reviewed. Staff will issue a Final Recommendation for the Commission's consideration at its January Business and Executive Session with respect to AT&T's request

19. The Commission’s Local Competition Regulations, as attached hereto as “Attachment A”, are modified to reflect the changes referenced herein.

20. This Order shall be effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
February 9, 2009

/S/ JACK “JAY” A. BLOSSMAN
DISTRICT I
CHAIRMAN JACK “JAY” A. BLOSSMAN

/S/ LAMBERT C. BOISSIERE, III
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