STATE OF SOUTH CAROLINA

BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NO. 97-239-C

IN THE MATTER OF:	)	
	)	
Intrastate Universal Service Fund	)	BRIEF OF CONSUMER ADVOCATE
	)	

Elliott F. Elam, Jr., Acting Consumer Advocate for the State of South Carolina, respectfully submits this Brief on the issues set forth below in the proceeding to examine the request of the Companies[1] for additional funds from the intrastate Universal Service Fund (USF) for telecommunications services in South Carolina.

USF support is a mechanism that is supposed to ensure the continuation of universal service in a competitive environment. That means that basic local exchange service is to be supported by universal service funds. It is difficult to maintain affordable basic local exchange rates in high-cost areas while promoting competition. Thus, in order to offer reasonable rates to all customers of basic service, it is necessary to provide additional federal and state funds to the local exchange provider; in other words, to make-up for the lost revenues in local exchange service. However, the Companies in this case have interpreted USF support as a means to lower competitive service rates without losing revenues. They have not demonstrated that local exchange costs are not covered by current rates and that they would need additional support from the USF if some rates are lowered. They have also failed to supply any competitive data with their

[1] The Companies include Alltel South Carolina, Inc., Bluffton Telephone Company, Hargray Telephone Company, Home Telephone Company, Horry Telephone Cooperative and PBT Telecom.

testimony or filing that demonstrates a competitive need to lower the prices of the services in question. Instead, the Companies have used the Commission's USF Order to simply revise the tariff rate for some of their services and claim the difference in revenues between the current rates and the proposed reduced rates from State Universal Service Funding. This proposal is unsupported, anti-competitive, and contrary to the laws and policies governing the USF.

The embedded cost studies filed in this case are not sufficient to justify additional funding from the South Carolina USF. The Companies' analysis is similar to a single service rate case, and the problem is the Commission does not have a complete picture. For example, other competitive services offered by these Companies could now be priced below cost and need a subsidy. In order to determine the existence of cross-subsidy it is necessary to analyze the current revenues and costs from all services. Only if the actual subsidy is applied directly to local service should these companies receive additional USF support.

Moreover, the costs per access line figures filed by the Companies show large percentage increases over the costs filed in 1997 that have not been explained at all in the filing or testimony in this case. There is no evidence to justify these large increases. Notably, the access line costs for Home Telephone are 26% higher than they were in 1997, and the line costs for Horry Telephone have risen 32% over that same period. For an industry whose costs are generally decreasing due to technological advances, these increases are inexplicable absent measures taken by these companies to improve their networks to make them capable of providing advanced competitive services such as DSL and video services. On cross-examination, the witness for these companies could not explain these increases.

USF support is intended to make-up local exchange service revenue shortfalls. The Commission cannot assume that local rates today are not recovering their costs without up-to-date cost evidence, and looking at the Company's total financial results. The Commission should have before it the actual cost for just "local exchange service", which it does not. The cost studies only show total network costs which have not been fully and appropriately allocated among all services that use the network.

In addition, the Commission must also ensure that the cost for local exchange service presents only intrastate costs. The Companies' cost studies in this case inappropriately use jurisdictionally unseparated costs. In other words, the Commission must ensure that the cost for local exchange service does not include the costs that by law are allocated to the interstate jurisdiction (25% of the loop cost is allocated to interstate according to the FCC rules). Without current local exchange costs the Commission has no way of knowing where USF will be used.

In addition, the Companies case in this phase of the USF proceeding suffers from the same legal infirmities as set forth in the Consumer Advocate's appeal of Commission Order Nos. 98-322, 2001-419, 2001-704, 2001-996 and 2001-1088 which is currently pending before the South Carolina Supreme Court, and the appeal of Commission Order Nos. 2003-215 and 2003-345 which are currently on appeal in the Richland County Court of Common Pleas. The legal arguments set forth in the Consumer Advocate's Brief before the Supreme Court are hereby incorporated into this Brief by reference. These include, but are not limited to, violations of S.C. Code Ann. § 58-9-280(E) regarding failure to properly allocate the costs associated with the local loop to all services; violation of 47 U.S.C. § 254(k) for failure to properly allocate the costs associated with the local loop to all services; and violations of FCC Separations requirements set forth at 47 C.F.R. Part 36.

CONCLUSION

For the reasons set forth above, the Commission should reject the requests of the Companies in this case.

Respectfully submitted,

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June 25, 2004

CERTIFICATE OF SERVICE

This is to certify that I, Elliott F. Elam, Jr., have served this day the foregoing **Brief of Consumer Advocate** upon the persons named below, at the addresses set forth, by deposit in the United States mail, postage prepaid.

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