

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 36**

[CC Docket No. 80-286, FCC 95J-1]

**Federal-State Joint Board; Extension of Indexed Cap on Total Level of Universal Service Fund****AGENCY:** Federal Communications Commission.**ACTION:** Recommended decision of Federal-State Joint Board.

**SUMMARY:** The Federal-State Joint Board recommends the extension of the duration of the interim indexed cap on the total level of the Universal Service Fund (USF) for an additional six months. The cap was intended as an interim measure moderating the growth of the USF during the pendency of a broader rulemaking revising the Part 36 jurisdictional separations rules governing the USF. The Federal-State Joint Board recommends the extension of the interim cap, which expires January 1, 1996, for an additional six months while that rulemaking is completed.

**FOR FURTHER INFORMATION CONTACT:** Clara Kuehn, 202-418-0844, Deborah A. Dupont, 202-418-0873, Accounting and Audits Division, Common Carrier Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal-State Joint Board's Recommended Decision CC Docket No. 80-286, FCC 95J-1, adopted December 7, 1995, and released December 8, 1995.

The full text of Recommended Decisions of the Joint Board are available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW, Washington DC. The full text of this Recommended Decision may also be purchased from the Commission's copy contractors, International Transcription Service,

(202) 857-3800, 2100 M Street, NW, Suite 140, Washington DC 20037.

**Summary of Recommended Decision**

In 1993, the Commission imposed a two-year indexed cap (cap) on the total level of the Universal Service Fund (USF) for the purpose of moderating growth in the USF during the pendency of a planned rulemaking that would address permanent changes in the Commission's rules governing the USF. 58 FR 69239, Dec. 30, 1993. On October 3, 1995, the Commission issued a Notice of Proposed Rulemaking, proposing a six-month extension of the cap in order to continue to moderate growth in the USF while the Commission completed its USF rulemaking. 60 FR 52359, Oct. 6, 1995. The Commission explained that the duration of the cap had been limited to two years in the belief that the USF rulemaking would be completed within that period and that an additional six months would be sufficient to complete the USF rulemaking in view of the progress made to date. *Id.* at 52361. The Commission referred the issues raised in its Notice of Proposed Rulemaking to the Federal-State Joint Board for a Recommended Decision and invited interested parties to propose extensions of the cap for longer or shorter periods than six months. *Id.* at 52360-61.

Following review of comments and reply comments filed by interested parties, the Joint Board recommends that the cap be extended for an additional six months in order to continue to moderate growth in the USF while the USF rulemaking is completed. The Joint Board reiterates its conclusion, stated during earlier deliberations in the same proceeding, that the cap would minimize dislocation should the Commission's ongoing USF rulemaking result in revisions to the USF rules. In response to contentions of the parties that the proposed extension is unnecessary, because recent NECA submissions showed total USF payments in 1996 below the level of the

USF as limited by an extension of the cap, the Joint Board explains that no one would be harmed if total claims for USF assistance remain below an extended cap, but that an extended cap would protect against unanticipated and unwanted growth in the fund during the pendency of the USF rulemaking should total claims substantially exceed NECA's current calculations. The Joint Board reiterates its concerns, stated earlier in the proceeding, regarding the pattern of growth and the overall rate of growth in the USF, explaining that moderating the level of the USF during the pendency of the USF rulemaking would serve the public interest.

The Joint Board concludes that six months should be sufficient to complete the USF rulemaking and recommends an extension of the cap for six additional months. The Joint Board rejects arguments to broaden the scope of the USF rulemaking as beyond the scope of the Notice of Proposed Rulemaking.

**Ordering Clause**

28. For all of the reasons discussed in this Recommended Decision, this Federal-State Joint Board recommends, pursuant to Section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 410(c), that the Federal Communications Commission extend, until July 1, 1996, the current interim rules prescribing an indexed cap on the total level of the Universal Service Fund, 47 CFR 36.601, 36.622.

**List of Subjects in 47 CFR Part 36**

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform System of Accounts.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

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