

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Safeguards to Improve the)
Administration of the)
Interstate Access Tariff and)
Revenue Distribution Process)

CC Docket No. 93-6
RM 7736

Comments of John Staurulakis, Inc.

John Staurulakis, Inc. (JSI), by its attorney, hereby submits these comments in response to the Federal Communications Commission (Commission) Notice of Proposed Rulemaking (Notice) in the above-captioned proceeding.¹ In the Notice, the Commission requests comment on various aspects of the National Exchange Carrier Association, Inc.'s (NECA's) tariff administration for rate of return carriers in an effort to improve NECA's tariff administration and to make NECA's internal operations stronger.²

JSI is a consulting firm specializing in independent telephone company toll and access settlements services to more than 150 telephone companies in 30 states. In that capacity, JSI is intimately familiar with NECA's pooling and tariff administration procedures. As discussed below, JSI submits that the Commission should encourage the continuation and expansion of NECA's efforts to ensure the efficient administration and integrity of the pooling process. JSI also submits that certain of the suggestions in the

¹ See In the Matter of: Safeguards to Improve the Administration of the Interstate Access Tariff and Revenue Distribution Process, Notice of Proposed Rulemaking, CC Docket No. 93-6 RM 7736, FCC 93-25, released February 11, 1993 (Notice).

² See id. at para. 1.

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Notice are unnecessary and potentially burdensome, and respectfully requests that these suggestions not be adopted. In support thereof, the following is shown.

I. Any Reconfiguration of the NECA Board Should Not Dilute The Representation and Voting Power of Subset Three Companies

In the Notice, the Commission makes several suggestions regarding how the NECA Board of Directors could be reconfigured.³ JSI offers comments only on the Commission's suggestions regarding the make-up of the Board. Specifically, JSI submits that any reconfiguration of the NECA Board should not dilute either the representation of or the voting power of the "Subset Three" companies.⁴

The Commission notes that the current NECA Board configuration was aimed at assuring "the NECA Board's responsiveness to the concerns of each subset of NECA members after the CL [Common Line] pool became voluntary on April 1, 1989."⁵ As a result of companies exiting the pools, the vast majority of the remaining Member Companies are "Subset Three" companies.

Accordingly, the representation and voting power of the "Subset Three" companies should not be diluted by any action arising from the Notice; if anything, they should be strengthened.

³ See id. at paras. 9-11, 14, 17, 19-20, 22, 24.

⁴ "Subset Three" companies are those companies other than: (1) the Bell Operating Companies, other than Cincinnati Bell and Southern New England Telephone Company; and (2) telephone companies that with annual operating revenues in excess of forty million dollars. See 47 C.F.R. Section 69.602(a).

⁵ Notice at para. 11 (footnote omitted).

In JSI's view, the Board as currently constituted adequately represents the interests of its member constituency.

II. NECA's Activities to Involve Its Member Companies in Decision Making Should Continue, Not Diminish

JSI endorses the independent auditor's suggestions that NECA alert the Commission to emerging and potentially controversial issues, and develop a long-term plan for simplifying the pooling process. JSI particularly endorses the independent auditor's suggestion for timely Commission action on Local Exchange Carrier (LEC) petitions for waivers or requests for clarifications of its Rules. However, JSI submits that it is unnecessary and potentially burdensome and controversial to adopt the Commission's suggestion to set minimum standards for the timing and content of LEC studies performed for jurisdictional separations and the allocation of costs among access elements.⁶ Sufficient standards are already in place with respect to both the timing and content of these studies.

JSI submits that the Notice should not result in diminishing NECA's current trend of seeking input from those companies that utilize NECA as their interstate tariff administrator (hereinafter referred to as "Member Companies") for the resolution of controversial tariff-related issues. As a frequent participant in this process, it has been JSI's experience that NECA having arrived at an opinion as to the proper resolution of a cost study issue, then circulates that opinion among its Member Companies and permits them to comment on it. This process allows the expression of

⁶ Id. at para. 27.

divergent views, facilitates the understanding of complex tariff-related issues, allows evaluation of the consequences of the implementation of NECA's interpretation of the Commission's Rules, and provides an early opportunity for appeal to the Commission when serious disagreement exists with NECA's resolution of controversial tariff-related issues.

This process has not compromised, in JSI's experience, NECA's "independent interpretive judgment"⁷ nor has it prevented NECA from implementing interpretations with which Member Companies have strenuously disagreed. Any suggestion that interpretations of the Commission's Rules in the resolution of controversial cost issues are based on industry consensus or are intended to accommodate divergent LEC viewpoints is ill founded.⁸

JSI believes that informal consultations between NECA and its Member Companies concerning controversial tariff-related issues are important and that the involvement of the Member Companies in the resolution of those issues is necessary. NECA's "independent interpretative judgment" can not be exercised in a vacuum, but must be made in light of the views of its Member Companies, their experience and expertise. JSI submits, therefore, that NECA's continuing efforts to garner input and views from its Member Companies for the resolution of controversial tariff-related issues should be encouraged.

⁷ See id. at para. 28.

⁸ See id.

III. Confidentiality of Member Company Data Needs to Be Protected If Proposals Regarding On-Line Data Access are Adopted

The Commission has proposed that NECA provide the Commission with "on-line, dial-up access to ... computer-based files" of member company-provided data.⁹ The Commission notes, however, that such access should not be provided until "safeguards are established to guarantee data base integrity and prevent unauthorized access."¹⁰

Should the Commission decide to adopt its proposal for on-line access to NECA data bases, all appropriate safeguards need to be established to protect the proprietary and confidential nature of Member Company-provided data. At a minimum, these safeguards should include identification by the Commission of the Member Company whose data is being accessed, and should require that NECA, in turn, inform the Member Company that its data has been accessed by the Commission.

IV. Additional Certifications Are Unnecessary

The Commission also inquires in the Notice whether an additional certification is required to assist NECA in identifying circumstances of noncompliance with the Commission's Rules.¹¹

JSI submits that this additional certification is unnecessary. Under NECA's current Pool Administration Procedures -- Cost Companies and the Universal Service Fund Program, each company

⁹ Id. at para. 32.

¹⁰ Id.

¹¹ See id. at para. 37.

already provides certifications as to overall company financial information.¹² JSI respectfully submits that the proposal by the Commission adds an additional layer of certifications, with no cognizable benefit, and therefore is unnecessary.

V. **Any Annual Cost Study Review Should Focus on the Integrity of the Pooling Process**

The Commission also has expressed concerns as to whether NECA's cost study review procedures are adequate.¹³ In view of these concerns, the Commission indicates that it may require NECA to file an annual report on the results of its cost study review process.¹⁴

JSI agrees with the independent auditor's conclusion, as stated in the notice, that "on-site reviews need not cover all possible cost study items...."¹⁵ JSI asserts that such detailed reviews would be wasteful of NECA resources. JSI also agrees that the reviews should concentrate on areas where "demonstrated problems" or other "risk factors" have been shown to exist.¹⁶ To that end, NECA should identify areas of concern in the cost study

¹² See Universal Service Programs, Section 2 at 10 (NECA, May 1991); Pool Administration Procedures Cost Company, Section 6 at 51A (NECA, March 1992).

¹³ Notice at paras. 42-43.

¹⁴ See id. at para. 44.

¹⁵ Id. at para. 43.

¹⁶ See id.

process and concentrate its review resources on those subject matters and study areas which have a material impact on Pool rates of return.

JSI submits that these procedures would address Commission

earlier indicated, the underlying financial data which provides the basis for the supporting cost study has already been certificated

would contradict Commission policies which either have been found to be, or have been proposed to be, in the public interest and will impose an unnecessary and costly requirement on the LEC industry.

VII. Conclusion

JSI is encouraged by the efforts that NECA has made to date to ensure the efficient administration and integrity of the pooling process. JSI submits that any action arising from the Notice should not diminish the continuation of those efforts or otherwise impair the relationship that currently exists between NECA and its Member Companies. Moreover, JSI submits that certain of the Commission's suggestions in the Notice are unnecessary and potentially burdensome to the LECs, and, therefore, respectfully requests that those suggestions not be adopted.

WHEREFORE, JSI submits that the Commission should take action on the Notice consistent with that suggested herein.

Respectfully submitted,

John Staurulakis, Inc.

By: 
Thomas J. Moorman
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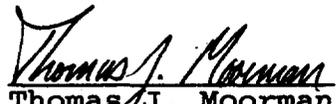
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Date: April 14, 1993

CERTIFICATE OF SERVICE

I, Thomas J. Moorman, do hereby certify that on this 14th day of April, 1993, a copy of the foregoing "Comments of John Staurulakis, Inc." was hand-delivered to the individual listed below.

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Thomas J. Moorman