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FCC MAIL SECTION Before the  
Federal Communications Commission  
Washington, D.C. 20554

JUL 7 3 37 PM '93

CC Docket No. 93-6 ✓

In the MATC  
DISPATCHED BY

Safeguards to Improve the  
Administration of the Interstate  
Access Tariff and Revenue  
Distribution Processes

RM-7736

### ORDER EXTENDING WAIVER

Adopted: June 28, 1993;

Released: July 6, 1993

By the Chief, Common Carrier Bureau:

#### I. INTRODUCTION

1. This order extends the existing waiver of Section 69.602 of the Commission's Rules<sup>1</sup> permitting the addition of two directors from outside the telephone industry to the Board of Directors of the National Exchange Carrier Association, Inc. (NECA). This waiver covers the period between January 1, 1994, and December 31, 1994. We are extending the waiver on our own motion.

#### II. BACKGROUND

2. Section 69.602 of the Commission's Rules specifies that NECA's Board shall consist of fifteen directors, of whom three are to be selected by and represent the Bell Operating Companies, three are to be selected by and represent other telephone companies having annual operating revenues in excess of \$40 million, and nine are to be selected by and represent telephone companies having annual operating revenues of less than \$40 million. These directors generally are elected for one-year terms that begin on the January 1 following their election.

<sup>1</sup> 47 C.F.R. § 69.602.

<sup>2</sup> Letter from Donna R. Searcy, Secretary, FCC, to Lawrence C. Ware, Chairman of the Board of Directors, 5 FCC Rcd 7183 (1990) (*November 9 Letter*).

<sup>3</sup> See NECA Petition for Rulemaking, RM-7736, filed May 24, 1991.

<sup>4</sup> Expansion of the NECA Board to Include Two Directors from Outside the Telephone Industry, 6 FCC Rcd 5403 (1991) (*1991 Waiver Order*).

<sup>5</sup> National Exchange Carrier Association, Inc., Expansion of Voting Membership on Voluntary Access Tariff Committees, 7 FCC Rcd 2050 (1992).

<sup>6</sup> Expansion of NECA Board to Include Two Directors from Outside the Telephone Industry, 7 FCC Rcd 4401 (1992) (*1992 Waiver Order*).

<sup>7</sup> The NPRM also seeks comment on methods to improve the interstate access tariff and revenue distribution processes administered by the National Exchange Carrier Association, Inc. (NECA).

3. In a November 9, 1990, letter to NECA,<sup>2</sup> the Commission determined that several NECA directors had apparently participated in an improper attempt to manage the earnings of NECA's common line pool for 1988. To provide a moderating effect on Board deliberations, the Commission stated its intention to consider expanding the NECA Board to include two or more members from outside the local exchange carrier (LEC) industry. In response to the Commission's *November 9 Letter*, NECA filed a petition for waiver and a petition for rulemaking to include two outside directors on NECA's Board of Directors. NECA's petition for waiver proposed the expansion on an interim basis, beginning January 1, 1992, and extending it until the Commission rules on NECA's petition for rulemaking<sup>3</sup> to make the Board expansion permanent.

4. On September 13, 1991, the Common Carrier Bureau granted NECA's petition for waiver to include two directors from outside the telephone industry on the 1992 NECA Board of Directors.<sup>4</sup> The Bureau later extended voting membership on all NECA committees to the two outside directors.<sup>5</sup> On April 21, 1992, NECA filed a petition to extend this waiver pending final resolution of the petition for rulemaking. That waiver was granted by the Bureau on July 7, 1992, for the January 1, 1993 - December 31, 1993 term only.<sup>6</sup>

5. The Commission released a Notice of Proposed Rulemaking (NPRM) in the above-captioned docket on February 11, 1993. Part of the NPRM considers whether the Commission should amend Section 69.602 of the Commission's Rules to permit two directors from outside the telephone industry to serve on NECA's Board.<sup>7</sup> The Commission received sixteen comment<sup>8</sup> and five reply comment<sup>9</sup> to the NPRM. All parties favored the permanent inclusion of outside directors on NECA's Board.

6. NECA must begin the process of selecting its 1994 Board of Directors in July, 1993. The Commission will not complete the rulemaking by that time. We believe that a one year extension of the current waiver is appropriate to allow NECA's elections to proceed without disruption.

#### III. DISCUSSION

7. In granting the waivers for 1992 and 1993, we stated that a waiver of Section 69.602 would serve the public interest and that the addition of two directors from outside the telephone industry might provide increased assurance

<sup>8</sup> The commenters to the NPRM are the ALLTEL Service Corporation (ALLTEL), Anchorage Telephone Utility (ATU), American Telephone and Telegraph Company (AT&T), Ameritech Operating Companies (Ameritech), Bell Atlantic telephone companies (Bell Atlantic), Cathey, Hutton & Associates, Inc., General Communication, Inc. (GCI), ICORE, Inc. (ICORE), National Association of Regulatory Utility Commissioners (NARUC), National Exchange Carrier Association (NECA), the National Telephone Cooperative Association (NTCA), the Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO), Southwestern Bell Telephone Company (SWBT), John Staurulakis, Inc. (JSI), United States Telephone Association (USTA), VTA Member Companies.

<sup>9</sup> ICORE, Inc. (ICORE), National Exchange Carrier Association (NECA), National Telephone Cooperative Association (NTCA), Southwestern Bell Telephone Company (SWBT), United States Telephone Association (USTA).

that NECA properly discharges its obligations under the Commission's Rules. There is evidence that the participation of two outside directors on the NECA board has been beneficial and that the two directors elected for the 1993 term have provided a valuable perspective and balance to the Board. We therefore authorize the additional directors for the January 1, 1994, through December 31, 1994, term.<sup>10</sup> In addition, we grant the two outside directors voting membership on all NECA committees for the 1994 term.

#### IV. ORDERING CLAUSE

8. Accordingly, pursuant to the authority contained in Sections 1, 4(i), 201-205, 218-220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§151, 154(i), 201-05, 218-20, and 403, and Sections 0.91(a) and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91(a) and 0.291, IT IS ORDERED that Section 69.602 IS HEREBY WAIVED to the extent stated herein.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen B. Levitz  
Acting Chief, Common Carrier Bureau

<sup>10</sup> We anticipate that the Commission will address the issues raised in the NPRM in the near future. The action we are

taking in this order is not intended in any way to prejudice the outcome of the rulemaking.