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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of:	)	
	)	
The National Exchange Carrier Association, Inc., Proposed Revision of Part 69 of the Commission's Rules to Allow for Incentive Settlement Options for NECA Pool Companies	))))	RM-8389

To: The Commission

COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC"), by its attorneys, hereby submits its comments on the above captioned National Exchange Carrier Association, Inc. ("NECA") Petition for Rulemaking, filed November 5, 1993 ("NECA Petition").[1] NECA has proposed that local exchange carriers ("LECs") which participate in the NECA pools be permitted to remain in the pools and at the same time opt to participate in an incentive regulation plan. This plan would benefit both NECA pool members and their customers by permitting pool members to share with customers a portion of their additional earnings brought about by reductions in cost. NECA has also proposed that the Commission permit it to use streamlined tariff procedures for the introduction of new services in its uniform tariff and pricing flexibility in its pools so long as such price changes are revenue neutral. PRTC supports NECA's proposals and urges the Commission to adopt them.

[1] Public Notice, Report No. 1986, November 16, 1993.

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It is clear that the Commission should adopt some form of incentive regulation for the local exchange carriers which participate in the NECA pools. The Commission has long recognized that incentive regulation is a superior method of regulation.[2] Incentive regulation encourages carriers to be efficient by rewarding cost reductions with additional profits; thus, carriers under incentive regulation behave more like unregulated companies operating in competitive markets.[3] In addition, carriers under incentive regulation retain more of the benefits of their innovation so they are more likely to make efficient decisions about new technology.[4] Incentive regulation greatly reduces any economic incentive to cross-subsidize nonregulated activities with revenues from regulated activities because rates for regulated service cannot be raised to cover any diversion of revenues.[5] Most importantly, incentive regulation benefits ratepayers because it rewards companies which reduce their costs by allowing them to share with consumers some of the resulting increased profits.

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[2] See Policy and Rules Concerning Rates for Dominant Carriers, Further Notice of Proposed Rulemaking, 3 FCC Rcd 3195, 3253-60 (1988)("Price Cap FNPRM"); Policy and Rules Concerning Rates for Dominant Carriers, Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873, 2922-25, 2931-33 (1989)("First Price Cap Order"); Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, 5 FCC Rcd 6786, 6789-91 (1990)("Second Price Cap Order").

[3] First Price Cap Order, 4 FCC Rcd at 2922-23.

[4] Id. at 2923.

[5] Id. at 2924.

The Commission has adopted incentive regulation, first in the form of price caps for AT&T[6] and later for the largest LECs.[7] In May, 1993, the Commission adopted incentive regulation (the Optional Incentive Regulation Plan or "OIR") for small and mid-sized LECs which are not members of NECA.[8] Under this plan, rate of return companies which leave the NECA pools may increase their profits by lowering their costs and sharing with customers the increased profits as a cost reduction incentive.[9] PRTC urges the Commission now to extend the benefits of incentive regulation to NECA members and their customers.

NECA has proposed that the Commission adopt a plan for NECA pool companies which wish to participate in incentive regulation but which do not want to assume the administrative burdens of maintaining separate access charge tariffs as required by the Commission's Optional Incentive Regulation Plan. NECA has dubbed its plan the "Pool Profit Sharing Incentive Option." Under the NECA plan, pool participants may opt to participate in the plan on an individual study area basis. If a study area chooses to participate in the plan, its services would be separated into three service groups: Common Line, Traffic Sensitive and Special Access. Each group would have an effective revenue ceiling called a "settlement rate," which would be

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[6] First Price Cap Order, 4 FCC Rcd 2873.

[7] Second Price Cap Order, 5 FCC Rcd 6786.

[8] Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation, 8 FCC Rcd 4545 (1993)("Regulatory Reform Order").

[9] Id.

recalculated every two years to meet the authorized rate of return. The plan participant would charge its customers the NECA uniform tariff rate but would recover from the NECA pool based on its individually determined settlement rates. A plan participant would be able to retain any profits it earns up to 1.5% over the authorized rate of return. Profits in excess of that "ceiling" would be shared first with plan participants whose own settlement rates produce a return more than .75% below the authorized rate of return - bringing their earnings up to .75% below the authorized rate of return. Profits more than 1.5% above the authorized return remaining after this intrapool profit sharing would then be shared with customers prospectively in the form of lower NECA tariff rates.

PRTC believes the adoption of NECA's proposed incentive plan will provide benefits to LECs, to the Commission and to ratepayers. The Pool Profit Sharing Incentive Option will give NECA pool members the ability to opt for incentive regulation without losing the benefits of NECA pooling. Under the existing Commission plan, NECA pool companies may participate only by dropping out of the NECA pool. The NECA incentive plan is better suited to many pool members because it ensures that companies with earnings significantly lower than the authorized rate of return will obtain earnings of at least .75% below the authorized rate of return. This reduced risk will encourage NECA pool companies to participate in incentive regulation, which will encourage those companies to increase their efficiency. The NECA plan also has the benefit of allowing NECA members to continue to receive other benefits of pooling including centralized tariff administration, ratemaking and Long Term Support, encouraging their participation in incentive regulation.

NECA proposes (under the Profit Sharing Incentive Option) that a study area be required to participate in the incentive option for two consecutive two-year periods. If the study area decides to end its participation in the incentive plan, it must wait four years to participate in the plan again. PRTC believes the NECA proposal is reasonable. NECA also proposes that study areas be permitted to elect incentive regulation either for Traffic Sensitive elements only or for both Traffic Sensitive and Common Line elements. PRTC strongly supports this flexibility in the incentive plan because it will encourage more companies to participate. Greater participation will lower costs for companies and for ratepayers. Finally, PRTC believes NECA's proposed ceiling of 1.5% above the authorized rate of return and .75% below the authorized rate of return are appropriate benchmarks.

In its Petition, NECA proposes two amendments to current tariff filing procedures which are intended to enhance the efficiency of the tariff filing process. First, NECA proposes that the Commission adopt streamlined procedures for new service offerings in the NECA tariff just as it has for small and mid-sized carriers outside the NECA pools.[10] Under these procedures, the rates for a new service offering would be presumed lawful so long as NECA demonstrates that the service is like an existing service offered by a price cap LEC and that the proposed price for the new service does not exceed

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[10] See Regulatory Reform Order, 8 FCC Rcd at ¶¶ 76-77.

the highest tariff on file with the Commission by a price cap LEC for that service. A tariff transmittal for a new service would be filed on fourteen days' notice.

These streamlined procedures for the introduction of new services should be adopted. As the Commission has noted, all LECs are under pressure to compete with the new service offerings of nearby price cap LECs.[11] It is difficult to meet that competition if new service introduction requires a LEC to expend much of its time and resources developing the cost support for the new service. By adopting the NECA proposal, the Commission would greatly simplify and expedite the introduction of new services by NECA members, permitting those carriers to respond to new service needs while achieving the Commission's goal of simplifying and reducing regulatory burdens on all carriers.[12] This will help ensure that telephone customers in small towns and rural areas have access to the same new services provided to customers in urban areas.

NECA also proposes that the Commission permit it to have pricing flexibility for some of its pools as long as the changes taken together are revenue neutral. NECA would be required to adjust rates within the traffic sensitive switched and special access groups up or down 5% over the tariff period. NECA would be required to file tariffs on fourteen days' notice to

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[11] Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation, Notice of Proposed Rulemaking, 7 FCC Rcd 5023, 5026 (1992)("Regulatory Reform NPRM").

[12] Id.

implement such adjustments. The Commission would presume the adjustment to be lawful so long as NECA demonstrates that the adjustments will be revenue neutral and confined within the 5% band. PRTC supports this proposal. For an incentive regulation system to succeed, the participants must have a degree of pricing flexibility so that they "can more easily respond to underlying service cost changes resulting from efficiency gains."[13]

In conclusion, PRTC believes that incentive regulation in general as well as the specific plan proposed by NECA for its pool members will serve the public interest by encouraging pool members to reduce costs and share the benefits of those cost reductions with consumers. PRTC also supports NECA's proposals for streamlined tariffing of new services and pricing flexibility. PRTC urges the Commission to adopt the NECA proposals.

Respectfully submitted,

Joe D. Edge

Joe D. Edge
Elizabeth A. Marshall

Hopkins & Sutter
888 Sixteenth Street, N.W.
Washington, DC 20006
(202) 835-8000

Counsel for Puerto Rico Telephone Company

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[13] Regulatory Reform NPRM, 7 FCC Rcd at 5026. See also, e.g., 47 C.F.R. §§ 61.49(c) & (d); Regulatory Reform Order, 8 FCC Rcd at ¶¶ 35-37.

CERTIFICATE OF SERVICE

I, Jean M. Layton, hereby certify that a copy of the foregoing Comments of Puerto Rico Telephone Company was mailed, postage prepaid, this 16th day of December, 1993 to the following:

Joanne Salvatore Bochis, Esq.
National Exchange Carrier Association
100 South Jefferson Road
Whippany, New Jersey 07981

International Transcription Service, Inc.
2100 M Street, NW
Suite 140
Washington, DC 20037

Jean M. Layton

Jean M. Layton

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