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

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In the Matter of: )  
)  
Changes to the Board of ) CC Docket No. 97-21  
Directors of the National )  
Exchange Carrier Association, Inc. )

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AMERITECH'S INITIAL COMMENTS

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The Ameritech Operating Companies<sup>1</sup> ("Ameritech"), respectfully offer the following initial comments on the Notice of Proposed Rulemaking released in the above-captioned docket on January 10, 1997 ("NPRM").

On October 18, 1996, the National Exchange Carrier Association, Inc. ("NECA") requested that the Commission modify the size and composition of NECA's Board of Directors.<sup>2</sup> Currently, the NECA Board is composed exclusively of representatives of incumbent local exchange carriers ("ILECs").<sup>3</sup>

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<sup>1</sup> The Ameritech Operating Companies are: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc.

<sup>2</sup> Letter from Bruce Baldwin, NECA, to Reed Hundt, Chairman, FCC, October 18, 1996 ("NECA Request").

<sup>3</sup> The composition of NECA's Board of Directors is governed by Commission rules. 47 CFR Section 69.602.

NECA seeks to expand membership on its Board to include non-ILEC interests. Specifically, NECA's Request is that the Board be expanded to include members representing competitive LECs ("CLECs"), interexchange carriers ("IXCs"), wireless carriers, as well as non-carriers such as schools, libraries and rural health care providers which could be the beneficiaries of universal service funds dispersed through NECA. NECA says that if its Board is more representative of the telecommunications industry as a whole, NECA will be eligible to serve as the temporary administrator of the universal service support mechanism.<sup>4</sup> Indeed, shortly after the NECA Request was made, the Federal-State Joint Board on Universal Service ("Joint Board") recommended that NECA be appointed to serve as temporary administrator of the universal service support mechanism, but only if its Board of Directors is expanded to include significant, meaningful representation of non-ILEC interests.<sup>5</sup> The NPRM seeks comment on NECA's Request and the Joint Board's recommendations.

Although the NPRM is directed to selecting an interim administrator, Ameritech believes that issue must be analyzed in the context of the criteria for selecting the permanent administrator. The permanent administrator of the universal service support mechanism should be a neutral entity capable

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<sup>4</sup> The Commission tentatively has concluded that NECA is not eligible to serve as the temporary administrator unless it becomes more representative of the telecommunications industry as a whole. NPRM at par. 2.

<sup>5</sup> Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, FCC 96J-3 (rel. Nov. 8, 1996).

of processing a large amount of data and billing a large number of telecommunications carriers. The administrator should not be aligned or associated with any particular industry segment and should not have a financial interest in the universal service support mechanism. In fact, the Commission established the principle in its 254 NPRM "that the selected administrator must operate in an efficient, fair and competitively-neutral manner."<sup>6</sup> This important principle should govern the Commission's appointment of a permanent administrator of the universal service support mechanism. The real challenge in this proceeding is to avoid interim solutions to universal support administration that could undermine this important principle in the long term.

If NECA did not exist today and the Commission were "writing on a clean slate," it surely would not establish a universal service support mechanism that is administered by a Board of Directors whose members have a financial interest in the dispersal of the universal service funds. But NECA does exist today and NECA admittedly has substantial expertise in processing data and billing telecommunications carriers. It may make sense to take advantage of that expertise to administer universal service funds on an interim basis until a new, genuinely neutral and technically competent

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<sup>6</sup> Federal-State Joint Board on Universal Service, Notice of Proposed Rulemaking and Order Establishing a Joint Board, CC Docket No. 96-45, FCC 96-93 (rel. Mar. 8, 1996)("254 NPRM").

administrator is selected on the basis of a competitive bidding process. Thus, proposals to add non-LEC representatives to NECA's Board could be viewed as an expedient way to make NECA "more neutral" and thereby make it more acceptable to make use of NECA's administrative expertise which is needed during a transition period.

However, it is not clear that having industry and/or beneficiary involvement in the universal service support mechanism will actually promote the Commission's goals for a cost efficient and neutral administration of universal service support. It is at least equally possible that such involvement could impede the efficient administration of universal service support. The Commission should use the experience it gains during this interim period to evaluate whether the permanent universal service support administrator should have any representation from the industry or beneficiaries of the fund.<sup>7</sup>

In the meantime, Ameritech has no objection to NECA serving as interim administrator of the universal service support mechanism. However, the interim period of NECA's service should be relatively short, and the Commission should not accord NECA any preference in the bidding

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<sup>7</sup> A Big-8 accounting firm wanting to submit a bid to become the permanent universal service support administrator may be unwilling to do so if the winning bidder may be required to expand its Board of Directors to make it more representative of the telecommunications industry.

process for the permanent administrator simply because NECA served in this interim capacity.

As an alternative to adding new, non-LEC interests to the NECA Board, the Commission should consider establishing a special advisory committee to work with NECA on matters of universal service support administration during this interim period. If NECA's Board is expanded, there will continue to be disputes about whether the number of new Board members is sufficient to make NECA "more representative,"<sup>8</sup> there will continue to be disputes about who should have the authority to nominate and appoint the new Board members, and there will continue to be disputes about whether prospective Board appointees adequately represent the interests they purportedly harbor. Moreover, if new members are appointed to the NECA Board as "representatives" of a particular groups, *e.g.* those that benefit from universal service fund disbursements, questions undoubtedly will arise over their fiduciary duties with respect to non-universal service matters that come before the NECA Board, *e.g.* administration of the common line and traffic sensitive access tariff pools. The NECA Request proposes this kind of

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<sup>8</sup> One of the issues on which the Commission seeks comment in this docket is whether expansion of the NECA Board to 21 members would be sufficient to assure "significant, meaningful representation of non-incumbent LEC interests" given that LEC interests would continue to account for more than 71% of NECA's Board. NPRM at par. 13.

fractionalized Board but does not explain how a Board constituted in that manner could discharge its fiduciary duties with respect to the entire NECA corporate entity.

A special advisory committee, on the other hand, would inject non-LEC perspectives into the Board's deliberations and give the Commission the opportunity to police the disbursement process if the need arises, but would not generate the thorny legal problems that will result by trying to isolate certain Board members from their fiduciary obligations with respect to parts of NECA's operations. A special advisory committee would be a reasonable approach given the relatively short time in which a temporary administrator will serve.

To conclude: the permanent administrator of universal service support "must operate in an efficient, fair and competitively-neutral manner."<sup>9</sup> The Commission should adopt a interim solution for universal service support that promotes this long term principle. And the Commission should use this interim period to collect information on whether having industry and/or

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<sup>9</sup> See footnote 6 *supra*.

beneficiary involvement in the universal service support mechanism will actually help, rather than hinder the efficient administration of universal service support.

Respectfully submitted,

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