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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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

REPLY

The National Exchange Carrier Association, Inc. (NECA) files herein its Reply to comments filed in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.¹

SUMMARY

The record in this proceeding strongly supports NECA's January 10, 1997 proposal to establish a new subsidiary universal service administration company (USAC) to serve as temporary administrator of new universal service programs. The record also supports the need for quick action by the Commission appointing NECA as temporary administrator, so that work can begin on developing new universal service support mechanisms for schools and libraries.

In making this appointment, the Commission should concurrently direct NECA to establish the proposed subsidiary; specify a reasonable size and balanced composition for the subsidiary's board of directors; and specify that the costs of administering new universal service

¹ Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Notice of Proposed Rulemaking and Notice of Inquiry, CC Docket No. 97-21, FCC 97-11 (released Jan. 10, 1997) (NPRM/NOI).

fund mechanisms shall be identified under Commission-approved revisions to NECA's cost accounting manual and recovered from the relevant funds.

I. THE RECORD SUPPORTS NECA'S JANUARY 10 PROPOSAL

The record in this proceeding strongly supports adoption of NECA's January 10, 1997 proposal to establish a new subsidiary universal service administration company (USAC) to serve as temporary administrator of new universal service programs.² A broad spectrum of interested commenters, including interexchange carriers, wireless carriers and incumbent local exchange carriers (ILECs), recognize that NECA's experience in managing universal service support mechanisms make it uniquely qualified to serve as temporary administrator of new universal service programs, pending selection of a permanent administrator. Commenters recognize that these programs must be administered in a neutral, even-handed manner, and support NECA's January 10 proposal as a way of accomplishing this goal.

The Personal Communications Industry Association (PCIA), for example, "applauds NECA for its recognition of the concerns surrounding the proposal reflected in the Notice" and is "pleased that NECA has responded to concerns about the original proposal" PCIA "believes that the revised NECA proposal, particularly if the [USAC board] is carefully

² See Letter of Bruce Baldwin, NECA, to Reed Hundt, Chairman, FCC, January 10, 1997 (NECA January 10, 1997 Letter). Under NECA's January 10 proposal, the new subsidiary company would be formed to administer new universal service programs, and could also become eligible to bid for appointment as long-term administrator. If successful in its bid for long-term appointment, the subsidiary company would be divested from NECA, thus resolving any remaining concerns about administrative neutrality. Copies of NECA's January 10, 1997 Letter were served on January 10, 1997 to all parties participating in CC Docket 96-45, and a copy was filed ex parte in this proceeding on January 17, 1997.

structured, could resolve many of the concerns [PCIA] has with the proposal reflected in the Notice.”³

The National Cable Television Association (NCTA) states that “the [January 10] approach NECA offers appears to be a legitimate basis” for making NECA eligible to serve as temporary administrator and that the Commission should amend its rules accordingly.⁴ Sprint agrees that the January 10 proposal provides the necessary changes, and offers suggestions regarding the proposed USAC board’s composition.⁵

Bell Atlantic and Nynex, Pacific Telesis, and US WEST all support NECA as temporary administrator based on revisions proposed in NECA’s January 10 letter.⁶ PacTel states, for example, that it “wholeheartedly support[s] NECA” in the role of interim administrator based on the January 10 Letter.⁷ It adds that “NECA is making significant changes to its organizational structure [to meet FCC criteria] and has the experience and large-scale information processing and database capabilities that the Commission seeks.”⁸ US WEST also “agrees that the revised NECA proposal made in its January 10 letter provides a sufficient combination of neutrality and expertise to permit the modified NECA entity to both be the temporary administrator and to

³ PCIA at 2-3, 8.

⁴ NCTA at 7-8.

⁵ See Sprint at 2.

⁶ See Bell Atlantic and Nynex at 3-4; Pac Tel at 2-3; US WEST at 2.

⁷ Pac Tel at 1-3.

⁸ Id.

compete for the position of permanent administrator.”⁹

The Rural Telephone Coalition (RTC)¹⁰ and the United States Telephone Association (USTA) support NECA as temporary administrator and support NECA’s January 10 proposal.¹¹ The associations state that “[t]he public policy reasons for adopting the NECA proposal are both the necessity for a prompt start on the creation of the new programs and the desirability of retaining the substantial expertise which NECA has developed.”¹² The associations also cite NECA’s reappointment as TRS administrator as an “indication of its ability to function both efficiently and fairly.”¹³

MCI asserts, however, that there is “no administrative reason that would require the

⁹ US WEST at 2. Ameritech does not specifically discuss NECA’s January 10 proposal, but does state that it “may make sense” to take advantage of NECA’s expertise on a interim basis pending selection of a new, genuinely neutral and technically competent administrator. Ameritech at 3-4. Ameritech specifically suggests that the Commission consider establishing a special advisory committee to work with NECA on matters of universal service support administration during the interim period. *Id.* at 5. Similarly, Southwestern Bell suggests that the Commission “consider the creation of a separate subsidiary at NECA” to administer new universal service support mechanisms. SWBT at 3. Implementation of NECA’s January 10 proposal would, of course, be consistent with both Ameritech and Southwestern Bell’s suggestions.

¹⁰ The Rural Telephone Coalition (RTC) represents the views of the Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO), the National Telephone Cooperative Association (NTCA) and the National Rural Telephone Association (NRTA).

¹¹ RTC & USTA at 4-6.

¹² *Id.* at 5.

¹³ *Id.*, n.9.

appointment of NECA on an interim basis.”¹⁴ According to MCI, the universal service fund for schools, libraries, and health care providers “will not be based on LEC costs and, therefore, NECA will have no expertise of any importance in administering the new fund.”¹⁵

MCI’s arguments ignore NECA’s extensive experience in collecting funds from a wide variety of entities, its substantial knowledge of telecommunications service provisioning and billing methodologies, its experience in collecting, validating and processing settlements data, and its experience in handling substantial monthly funds flows -- skills that will play a vital role in administering new universal service funding mechanisms for schools, libraries and rural health care providers. New universal service support mechanisms requiring contributions from all interstate telecommunications carriers and distributions to multiple entities will impose substantial new data collection and verification requirements on the administrator, which NECA is uniquely qualified to meet. NECA’s TRS experience is particularly relevant, as it currently processes contributions from over 3,000 interstate telecommunications providers that support the interstate TRS fund.¹⁶ Contrary to MCI’s claims, this expertise is unlikely to be duplicated by

¹⁴ MCI at 2.

¹⁵ Id.

¹⁶ It is noteworthy that MCI, which participates both as a contributor and receiver of TRS funds, had no objection to NECA’s reappointment as TRS administrator. See CC Docket No. 90-571, MCI Comments (filed March 6, 1995) (stating that MCI “does not have a specific complaint as to administration by NECA of the TRS Fund” and noting with approval that “NECA was able to administer the TRS Fund during 1994-95 below its forecast budget by \$10,000”).

another entity at this time.¹⁷

II. THE COMMISSION SHOULD ACT SOON TO APPOINT NECA AS TEMPORARY ADMINISTRATOR OF NEW UNIVERSAL SERVICE PROGRAMS.

The Commission should act quickly to appoint NECA temporary administrator of new universal service programs. This appointment should direct NECA to establish a USAC subsidiary to fulfill these administrative functions. At the same time, the Commission should clearly establish, by rule or order, a reasonable size for the USAC entity's board of directors; criteria and methods for selecting representatives from a cross-section of the telecommunications industry and representatives of other interested parties; and procedures for recovery of administrative costs.

NECA's initial comments suggested that USAC board members could be appointed by the Commission, nominated by interested parties, or selected by NECA based on recommendations of the Commission and/or interested parties. Several commenters offered specific suggestions regarding the size and composition of a new board in the comment round.¹⁸ Although NECA does not take any specific positions on the size or composition of the USAC subsidiary board, it does believe that the inclusion of representatives from the NECA board, who have experience with NECA operations and the complexities of managing universal service funding mechanisms, would help to assure operational continuity.

¹⁷ See generally CC Docket No. 96-45, NECA Comments (filed April 12, 1996) at 19 (describing NECA experience with collecting universal service funding data, cost data, settlements system processing capabilities, verification systems, etc.).

¹⁸ See, e.g., American Library Association at 4-5; NCTA at 7-8; Sprint at 2; RTC & USTA at 6.

Ameritech questions whether 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, and suggests that the Commission use the experience it gains during the interim period to evaluate whether the permanent universal service support administrator should have any representation from the industry or beneficiaries of the fund.¹⁹

There are substantial advantages, however, in having a board with representation and expertise from all segments of the telecommunications industry, as well as representation from other interested parties such as schools, libraries and rural health care providers. A board whose members have experience and expertise in telecommunications services, as well as representation from contributing companies and fund beneficiaries, will be able to provide much better guidance to the administrator than a board composed of individuals who lack such experience and involvement. Under the structure proposed in NECA's January 10 Letter, the USAC entity's board would have balanced representation from affected parties, and thus would be able to take advantage of industry expertise without collectively being aligned with any particular industry segment.²⁰

¹⁹ Ameritech at 4.

²⁰ Ameritech expresses further concern that large accounting firms might be unwilling to submit bids "if the winning bidder may be required to expand its Board of Directors to make it more representative of the telecommunications industry." *Id.* at n.7. NECA has not suggested that potential bidders should be required to have balanced representation of industry interests on their boards. NECA does believe, however, that the approach suggested in its January 10 Letter is the best way of satisfying the Joint Board's eligibility criteria, while maintaining a high level of expertise and involvement in universal service administration concerns.

As some commenters recognize, there is a sense of urgency in resolving the issues raised in this proceeding. The Joint Board's Recommended Decision contemplated that discount programs for schools and libraries, at least, should become operational by mid-1997. The national telephone associations and NECA have pointed out that new programs for schools and libraries involve many entities that are new to universal service funding mechanisms.²¹ Substantial amounts of data may need to be gathered and verified. NECA is fully capable of accomplishing these tasks, but establishing lines of communication with interested parties, understanding their needs, and developing workable administrative mechanisms will take some time.

NECA is eager to begin this developmental work. It is essential that the Commission act soon to appoint NECA, through a new USAC subsidiary as described in NECA's January 10, 1997 Letter, as temporary administrator of new universal service programs. Concurrently, the Commission should specify parameters for USAC's governance (as discussed above), and specify cost recovery procedures.²² By doing so quickly, the Commission can help assure successful and timely implementation of its new universal service programs.

III. CONCLUSION

Establishment of a USAC entity, as outlined in NECA's January 10 Letter, and supported by the record in this proceeding, will address the concerns expressed by commenters

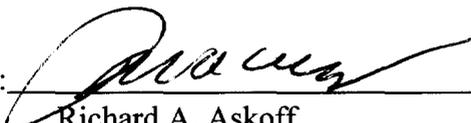
²¹ NECA Comments at 8-9.

²² Inasmuch as it will take time to organize a subsidiary and locate qualified board members willing to serve, the Commission should not require NECA to complete these tasks prior to appointment as temporary administrator.

in CC Docket 96-45 regarding NECA's administration of new universal service programs. The USAC board would be "more representative of all segments of the telecommunications industry" and assure "significant, meaningful representation" in universal service administrative processes. Accordingly, the Commission should direct NECA to establish such a subsidiary upon its appointment as temporary administrator of new universal service programs. The Commission should also provide clear guidance, by rule or order, as to the composition of the USAC entity's board of directors, selection procedures for appointment of board members, and procedures for recovery of administrative costs.

Respectfully submitted,

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February 3, 1997

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Comments were served this 3rd day of February, 1997, by mailing copies thereof by United States Mail, first class postage paid, or hand delivery, to the persons listed below.

By /s/ Perry Goldschein
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