

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 Directors) CC Docket No. 97-21
of the National Exchange Carrier)
Association, Inc.)

Comments of BellSouth in Response to NOI

BellSouth Corporation, on behalf of itself and its subsidiaries ("BellSouth") hereby offers these comments in response to the Notice of Inquiry ("NOI"), FCC 97-11, released January 10, 1997 in the captioned proceeding.

In the NOI, the Commission seeks comment on changes in its rules governing the National Exchange Carrier Association, Inc. ("NECA") that would be necessary to enable NECA to be eligible to compete for the position of permanent administrator of the new universal service support mechanisms arising out of Section 254 of the Telecommunications Act of 1996. For the reasons set forth below, BellSouth recommends that the Commission approve NECA's proposal to establish a subsidiary that, if selected as permanent fund administrator, would be spun off into an independent corporate entity with a board of directors that is representative of both contributors to and recipients from the funds. This would obviate the need for changes in the existing governance of NECA established by the Commission's Part 69 rules¹, and would avoid possible conflict of interest problems for future NECA directors.

BellSouth believes that the current NECA proposal, which was contained in the January 10, 1997 letter to Reed E. Hundt, Chairman, Federal Communications Commission, from Bruce

¹ NOI, ¶ 15.

W. Baldwin, President, NECA, meets the Joint Board's proposed criteria for eligibility to compete for the position of permanent fund administrator.² The Comments received in response to the Notice of Proposed Rulemaking portion of this docket are in general agreement with this assessment.³ Because the bidding entity would be completely separated from NECA if selected as the permanent fund administrator, no changes are required to NECA's governance, or the Commission's Part 69 rules, to implement this proposal.

The NOI recognizes the need for a permanent fund administrator to have the capacity to process large amounts of data and bill large numbers of carriers.⁴ NECA has demonstrated its capabilities in this regard as administrator of the Telecommunications Relay Service (TRS) fund. In the January 10 letter, NECA promises to staff the new entity with sufficient resources to meet this criteria.

BellSouth believes that the Commission's overriding criteria for a permanent fund administrator should be the ability to fairly and impartially administer the collection and disbursement of the funds in a timely and cost-effective manner.⁵ Corporate governance should become an issue only to the extent that it bears on the ability of a given entity to meet this goal.⁶ A bidding

² *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, FCC 96J-3, released November 8, 1996, ¶¶ 830-832.

³ Those parties commenting on the January 10 letter generally agreed that it provides a sound basis for a NECA subsidiary to compete for the position of permanent fund administrator. Even AT&T, which did not address the January 10 proposal in its comments, agreed in its reply comments that the January 10 letter forms a basis for "qualifying as an interim or permanent NUSF administrator." AT&T Reply Comments at 8-9.

⁴ NOI, ¶ 16.

⁵ BellSouth believed that the NECA staff has demonstrated that it possesses the necessary technical expertise and ability to process large amounts of data and to bill and remit funds to large numbers of carriers.

⁶ The Commission should consider the composition of the board of a bidding company in assessing the ability of that entity to fairly and impartially administer the support mechanisms.

company may be considered to be fair and impartial either: 1) by having a board not aligned or associated with any particular industry segment and not having a direct financial interest in the support mechanisms established by the Commission; or 2) by having a balanced board composed of representatives of each of the affected industry segments, both contributors and recipients.⁷ If the Commission is to have the broadest possible participation in the fund administrator selection process, it should recognize that entities meeting either of these criteria should be eligible for consideration. The proposal contained in NECA's January 10 letter is sufficient, in BellSouth's view, to make the proposed NECA subsidiary eligible to participate in the selection process under the second criteria set forth above.⁸

BellSouth does not believe that NECA's existing access tariff and pool administration functions should be subject to a competitive selection process.⁹ It remains appropriate for NECA to continue to be directed by representatives of the companies participating in the pools and utilizing the access tariffs filed on their behalf. NECA was created by the Commission to perform these functions subject to oversight by regulators and the member companies. The Commission's continuing oversight is sufficient to ensure the efficient and cost-effective administration of these functions on behalf of the participating carriers.

In conclusion, BellSouth respectfully submits that NECA's January 10, 1997 letter forms a workable basis under which a NECA subsidiary can compete for appointment as permanent funds

⁷ BellSouth believes that industry representatives can and should serve on the board of the new entity. Obviously, each board member (not only an industry representative) would have to be mindful of potential conflicts, and take appropriate action in the event a conflict of interest was presented.

⁸ BellSouth takes no position at this time on whether the NECA subsidiary should be selected as the permanent fund administrator.

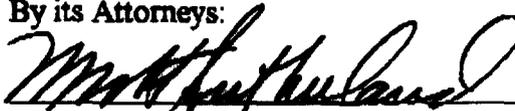
⁹ NOI, ¶ 17.

administrator. If the NECA subsidiary is selected, NECA will spin off that entity in order to meet the independence criteria established by the Joint Board. BellSouth believes that this proposal maintains the maximum flexibility for the Commission, while ensuring that NECA's significant expertise in administering large funds is available to the industry and the public.

Respectfully submitted,

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Date: March 3, 1997

CERTIFICATE OF SERVICE

I Julia W. Spires, do hereby certify that I have this 3rd day of March 1997, serviced all parties to this action with the foregoing "COMMENTS" reference CC DOCKET 97-21, by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid addressed to the parties as set forth on the attached service list.


Julia W. Spires

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