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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of

Changes to the Board of Directors of the  
National Exchange Carrier Association, Inc.,

Notice of Inquiry

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CC Docket No. 97-21

REPLY COMMENTS OF MCI COMMUNICATIONS CORPORATION

Lawrence Fenster  
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April 3, 1997

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FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

<b>In the Matter of</b>	)	
	)	
<b>Changes to the Board of Directors of the National Exchange Carrier Association, Inc.</b>	)	<b>CC Docket No. 97-21</b>
	)	
<b>Notice of Inquiry</b>	)	

**MCI REPLY COMMENTS**

MCI Telecommunications Corporation ("MCI") respectfully submits its reply comments in response to the Notice of Inquiry ("Notice") in the above-captioned docket<sup>1</sup>. In response to its Notice, the Commission received comments from 9 parties, NECA, MCI, Worldcom, Pacific Telesis, Bell Atlantic/NYNEX, Ameritech, Southwestern Bell Telephone, and BellSouth.

In its Comments MCI demonstrated that the passage of the 1996 Act invalidated the conditions that may have once justified having a tariff filing association, such as NECA, administer explicit subsidy programs.<sup>2</sup> MCI showed that conditions now require complete separation of tariff filing functions from management of explicit subsidies.

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<sup>1</sup> In the Matter of: Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Notice of Inquiry, CC Docket No. 97-21, FCC No. 97-21, released January 10, 1997.

<sup>2</sup> MCI Comments at 3.

MCI also demonstrated that no organizational reform was capable of eliminating the conflicts of interest and anticompetitive incentives that would exist were NECA to be permitted to be responsible for filing tariffs based on average embedded costs and administering explicit subsidies based on the difference between benchmark revenues and the forward looking long run incremental costs.<sup>3</sup>

MCI's comments also demonstrated that NECA's Universal Service Administration Company (USAC) affiliate would be incapable of being a neutral fund administrator, and would benefit from its relation with NECA, thereby violating the Joint Boards conditions for neutral fund administration.<sup>4</sup> Worldcom, the only other non-LEC party to file in this proceeding, further elaborates the ways in which the USAC would benefit from its relation with NECA and would be incapable of being a neutral fund administrator.

...the new USAC affiliate would be completely owned by NECA, would include NECA representation on its Board of Directors, would use NECA personnel, support services, and resources, and would share other support services..."<sup>5</sup>

Worldcom goes on to propose making NECA a body capable of becoming a neutral fund administrator by making NECA representative of incumbent LECs, new entrants, IXC's, and regulatory bodies such as the FCC and NARUC. MCI does not believe these reforms would render NECA capable of being a neutral fund

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<sup>3</sup> See MCI Comments at 5.

<sup>4</sup> *Id* at 7.

<sup>5</sup> Worldcom Comments at 4.

administrator. Regardless of the industry segments represented on NECA's Board, it will have a fiduciary responsibility to serve the interests of NECA, namely maximizing access revenues for the companies on whose behalf it files tariffs. For this reason, NECA would never be able to be a neutral evaluator of subsidy claims by its members. Ameritech essentially agrees with this position, stating that "[i]t was not clear to Ameritech that having industry and/or beneficiary involvement in the universal service support mechanism would actually promote the Commission's goal for cost efficient and neutral administration of universal service support."<sup>6</sup>

Incumbent LECs recognize there will be conflicts of interest that NECA and its USAC will have to overcome. They propose the following solutions limited to achieving a balanced board of directors.

placing a ceiling on any one segment of the industry (i.e. LECs) being represented on the USAC's Board, rather than specifying certain representativeness of industry representation;<sup>7</sup>

letting the Commission decide what would constitute balanced representation on the USAC, so long as NECA remained represented, and retained its tariff filing mandate;<sup>8</sup>

Neither of these proposals addresses the fundamental problem that as subsidiary members of NECA, this board of directors will have a duty to further the financial interests of NECA companies.

The one "balance" that might permit such a board to be neutral, *viz* opening up

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<sup>6</sup> Ameritech Comments at 3.

<sup>7</sup> SWBT Comments at 2.

<sup>8</sup> Pacific Telesis Comments at 3.

NECA to membership by IXCs, new entrants, and other industry segments, is staunchly opposed by NECA and most ILECs. Because balanced representation is incapable of solving the inherent conflicts of interest between NECA's tariff filing responsibilities, and the task of an explicit subsidy fund administrator, the Commission should not unilaterally reform its rules to make NECA an "acceptable" administrator.

Doing so would inappropriately signal implicit support for NECA, or for specific organizational arrangements, and so bias the competitive bidding process. Rather, in its bid, NECA should propose the specific rule changes it believes would accomplish its desired reorganization as part of its bid to be the fund administrator, which would then be examined in evaluating NECA's overall proposal. For the above-mentioned reasons, MCI encourages the Commission to adopt the proposals suggested by MCI herein.

Respectfully submitted,  
MCI TELECOMMUNICATIONS CORPORATION

A handwritten signature in black ink, appearing to read "Lawrence Fenster", written in a cursive style.

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April 3, 1997

**STATEMENT OF VERIFICATION**

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on April 3, 1997.

A handwritten signature in black ink, appearing to read "Lawrence Fenster", written over a horizontal line.

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## CERTIFICATE OF SERVICE

I, Barbara Nowlin, do hereby certify that a copy of the foregoing **Reply Comments** has been sent by United States first class mail, postage prepaid, hand delivery, to the following parties on this 3rd day of April, 1997.

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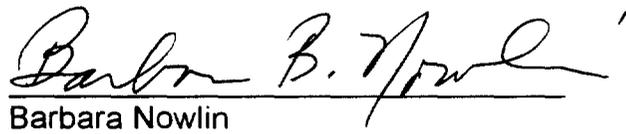
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