

Proceeding: **CHANGES TO THE BOARD OF DIRECTORS OF THE NATIONAL EXCHANGE** Record 1 of 1
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
USAC Plan of Reorganization)	CC Docket No. 97-21
)	
)	CC Docket No. 96-45
)	
)	Public Notice DA 98-1336

REPLY COMMENTS
OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") hereby files reply comments in connection with the Commission's *Public Notice* seeking comment on the Universal Service Administrative Company ("USAC") Plan of Reorganization. NTCA is a national association of approximately 500 LECs. These LECs provide telecommunications services to end users and interexchange carriers throughout rural America.

DISCUSSION

1. USAC's Role is Limited to Administration of Policy

NTCA agrees with many commenters that USAC has a limited role which is ministerial in nature and should not include policy-making at all. NTCA also agrees that USAC's role should not involve adjudication. When Congress directed the FCC to propose a revised structure for the administration of universal service specific limitations were placed upon the administrative entity:

(2) REVISED STRUCTURE- The report shall propose a revised structure for the administration of the programs established under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)). The revised structure shall consist of a single entity.

(A) LIMITATION ON ADMINISTRATION OF PROGRAMS- The entity proposed by the Commission to administer the programs-

(i) is limited exclusively to the ministerial acts of processing the applications necessary to determine eligibility for discounts under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) as determined by the Commission;

(ii) may not administer the programs in any manner that requires that entity to interpret the intent of the Congress in establishing the programs or interpret any rule promulgated by the Commission in carrying out the programs.¹

These limitations are very explicit and should be formally incorporated into the Commission reorganization of USAC.

GTE believes that: "Any required interpretation or policy decision-making must be the responsibility of the Commission."² BellSouth said: "USAC, [Schools and Libraries Corporation] SLC and [Rural Health Care Corporation] RHCC lack both the statutory authorization and the resources to perform an adjudicative function. Nevertheless, these entities have issued rulings affecting substantive rights without affording interested parties the procedural safeguards of notice and hearing guaranteed by the Administrative Procedures Act."³

¹ S. Rep. No. 168, 105th Cong., 2nd Session, Section 2004(b)(2)

² GTE Service Corporation at 2.

³ BellSouth Telephone Cooperative Association
Public Notice
August 12, 1998

U S West points out that the SLC and the RHCC have not been operating within the narrow constraints described by the Commission in its May Report to Congress.⁴ U S West states that: "The SLC is not today just 'interpreting and applying existing decisional principles.' It has been creating the equivalent of new guidelines." U S West argues, and NTCA agrees, that "The SLC does not possess that authority [to promulgate new rules and guidelines] today and it should not possess that authority on January 1, 1999."⁵ NTCA agrees and believes the Commission should make it clear that neither USAC or any proposed division of USAC should be permitted to make substantial rules or guidelines that determine the rights of carriers intended to receive support.

2. The FCC should handle Appeals of Decisions by USAC Divisions

Because of its concern that USAC division decisions may go beyond administration of the programs, NTCA believes the USAC Board should refer to the FCC disputes hinging on substantive guidelines. The USAC Board does not have the authority to resolve disputes concerning the application or interpretation of the Commission's substantive rules.⁶

SBC Corporation notes that the Public Notice proposes procedures to obtain FCC review of decisions made by USAC, but fails to include a provision for addressing decisions previously made by current universal service fund administrators.⁷ NTCA supports SBC's suggestion that

⁴ U S West Communications at 5.

⁵ U S West Communications at 6.

⁶ U S West Communications at 12. "The only entity with authority to make definitive determination that a [USAC] division has or has not correctly interpreted the Commission 's rules and decisional principles is the Commission itself."

⁷ SBC Corporation at 3.

parties be permitted sixty (60) days from the effectiveness of the order adopting a review process to seek review of any previous decisions.⁸

3. Government Compensation Limits Do Not Apply to NECA

⁸ SBC Corporation at 4.

NTCA agrees with the National Exchange Carrier Association (NECA) that compensation for NECA employees should not be governed by government compensation limits. NECA is a private corporation which performs services which primarily involve the preparation of tariffs and revenue distribution on behalf of numerous telephone companies.⁹ The issue of compensation for NECA employees and officers is no different than other business judgments that are the purview of the NECA Board of Directors.

⁹ NECA at 3.

CONCLUSION

NTCA urges the Commission to clearly limit USAC's authority to the administration of the universal service funds in accordance with the Commission's rules and guidelines. The Commission should reserve the right to resolve issues that involve substantive rights. The Commission should affirm NECA's status as a private corporation which is subject to the decisions of its Board of Directors in compensation limits.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, RITA H. BOLDEN, certify that a copy of the foregoing Reply Comments of the National Telephone Cooperative Association in CC Dockets 97-21& 96-45, DA 98-1336 was served on this 12th day of August 1998, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:

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