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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Federal-State Joint Board on Universal	)	
Service	)	CC Docket No. 96-45
	)	FCC 99-306
	)	

PETITION FOR RECONSIDERATION

Pursuant to section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, the National Exchange Carrier Association, Inc. (NECA) submits this Petition for Reconsideration of the Commission's *Methodology Order*, released November 2, 1999.[1] This Petition seeks reconsideration of the Commission's new non-rural support mechanism as it relates to Long Term Support (LTS) currently received by NECA access charge pool members.

The *Methodology Order* adopted rules for implementing the new non-rural universal service support mechanism, including an interim "hold-harmless" provision to ensure that LECs receive no less support under the new methodology than they had been receiving under the current methodology.[2] In addition to support associated with

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[1] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Ninth Report & Order and Eighteenth Order on Reconsideration*, 64 Fed. Reg. 67416 (1999) (*Methodology Order*).

[2] To the extent a carrier does not qualify for forward-looking support under the new mechanism, or qualifies for less forward-looking support than it would receive under the
(continued on next page)

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unseparated loop and port costs, interim hold-harmless amounts will also apparently include LTS payments currently available under section 54.303 of the Commission's rules.[3] The *Methodology Order* further states that federal universal service support (apparently including LTS) provided in the form of carrier revenue, is to be accounted for by states in their rate-making processes, effectively treating this support as intrastate revenue.[4]

The *Methodology Order* appears to assume that LTS is provided as part of the *intrastate* support amounts calculated by the new forward-looking cost mechanism for non-rural carriers. Based on this assumption, the *Methodology Order* appears to contemplate that any LTS payments included in hold-harmless amounts should be phased out in the same manner that other hold-harmless support flows are eliminated.

In fact, LTS is an *interstate* support mechanism, not included in, or replaced by, the new forward-looking economic cost mechanism implemented in this proceeding. Section 54.303 of the FCC's rules specifically addresses the calculations of LTS and states that LTS is calculated "annually by adjusting the previous year's level of support to reflect the annual percentage change in the Department of Commerce's Gross Domestic

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existing mechanism, the carrier will receive interim hold-harmless support based on the existing mechanism. See *Methodology Order* at ¶ 78.

[3] *Id* at ¶ 78.

[4] *Id. at* ¶ 95. Similarly, the *Methodology Order* states that all support amounts provided to non-rural carriers via the hold-harmless provision (again, apparently including LTS) "should continue to operate through the jurisdictional separations process to reduce book costs to be recovered in the intrastate jurisdiction." *Id.* at ¶ 106.

Product-Chained Price Index."[5] This rule does not anticipate that the calculation of LTS is related in any way to the use of a forward-looking economic cost model.

LTS is intended to assure reasonable comparability of *interstate* carrier common line (CCL) rates between NECA pool participants and non-NECA pool members. Commission rules specifically target receipt of LTS to NECA pool participants.[6] The LTS mechanism was put in place in 1989, as part of the Commission's *NTS Recovery* proceeding.[7] In that proceeding, the Joint Board and the Commission determined that NECA common line (CL) pool participants should be permitted to continue to charge an interstate CCL rate that is set at the nationwide average of CCL rates. Since NECA pool participants' CL revenue requirements tend to be higher than the nationwide average, a

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[5] 47 C.F.R. § 54.303.

[6] *See* 54.303(a). ("Beginning January 1, 1998, an eligible telecommunications carrier that participates in the association Common Line pool shall receive Long Term Support.") *See also* Independent Telephone and Telecommunications Alliance (ITTA) Reply Comments on Federal-State Joint Board on Universal Service: Interim Hold-Harmless Provision of the Commission's High-Cost Support Mechanism, CC Docket No. 96-45, FCC 99J-2 (*NPRM*) at 2 (filed Dec. 15, 1999)("LTS is currently one of the few existing explicit mechanisms supporting reasonably comparable interstate access charges. The Commission's new mechanism was not intended to replace LTS . . . .")

[7] MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72 and 80-286, *Report and Order*, 2 FCC Rcd 2953 (1987) (*NTS Recovery Order*) ("[LTS] is necessary to ensure that [small] companies are not required to charge inordinately high CCL rates for access to their networks. The long-term support mechanism allows these carriers to maintain the nationwide averaged CCL rate that would have existed had the mandatory full common line pool been retained. This should avoid unnecessary pressures for bypass in high cost areas, preserve toll averaging, and encourage competitive providers of interstate switched services to enter such markets.") *Id.* at 2957-58. *See also* North State Telephone Company Reply Comments on *NPRM* at 2 ("LTS is an *interstate* support mechanism intended to assure reasonable comparability of *interstate* CCL rates between NECA pooling and non-NECA pool participants. . . . . [N]othing changes the nature or original intent of LTS as an interstate support mechanism.")

shortfall in interstate revenue requirements is generated. LTS represents the difference between the actual interstate CCL revenue requirements of NECA pool participants, and the amount of CCL revenues generated when pool participants charge the nationwide average rate. LTS is intended to provide support for interstate access rates, and therefore should not be included as a component of the universal service mechanisms to provide support for intrastate end user rates. [8]

LTS is an important source of revenue for all NECA pool participants.[9] LTS constitutes approximately 34% of NECA's common line pool revenue stream. Several non-rural carriers participate in the NECA common line pool, including North State Telephone, receiving $2.4 million in LTS; Puerto Rico Telephone Company, receiving $89.7 million; and Roseville Telephone Company, receiving $4.7 million.[10] Loss of LTS revenues associated with these carriers would substantially impact CCL rates for all NECA pool members, causing rates to increase by as much as 42%.

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[8] *See also* The Telephone Association of New England Reply Comments on *NPRM* at 2 (filed Dec. 15, 1999) ("LTS provides support for interstate access rates rather than support for intrastate consumer rates.")

[9] As explained by the United States Telecom Association (USTA), the "loss of LTS revenues, as embodied in the Commission's access charge plan, seriously jeopardizes NECA pool participants, both non-rural and rural." *See* USTA Reply Comments on *NPRM* 3 (filed Dec. 15, 1999)

[10] As included in the Universal Service Administrative Company (USAC) quarterly filing of year 2000 first quarter universal service High Cost Fund support amounts, Appendix 1, published at the FCC Internet web site:
http://www.fcc.gov/ccb/universal_service/quarterly_filings/.

This result appears to be inconsistent with the Commission's intent of creating a new universal service support mechanism.[11] In its *Methodology Order* the Commission makes clear that it is addressing support to enable the reasonable comparability of *intrastate* rates. It would be inappropriate to address a revenue stream such as LTS, designed to offset interstate costs, in a support calculation mechanism addressing the comparability of intrastate rates. Similarly, the Commission should not require states to include LTS in their intrastate ratemaking processes. LTS is a post-separations supplement to interstate access charge revenues, and cannot be used to offset *intrastate* revenue requirements. Since LTS is an *interstate* revenue flow designed to offset interstate CCL revenue requirements for NECA pool members,[12] non-rural NECA pool members should continue to receive LTS notwithstanding any phase-out of other hold-harmless amounts.

The Commission must reconsider its decision to treat LTS as an intrastate revenue source. LTS is an interstate support mechanism, not intrastate, and therefore cannot be

[11] As explained by the Rural Telephone Coalition, "[s]uch a result would [also] be inconsistent with the Commission's decision to maintain rural support mechanisms intact until new rural support mechanisms are devised, and the removal of implicit support through access charges is addressed in a separate proceeding." *See* Rural Telephone Coalition Reply Comments on *NPRM* at 4 (filed Dec. 15, 1999). *See also* ITTA Reply Comments at 5 (filed Dec. 15, 1999)("[T]he Commission's conclusion to eliminate hold-harmless amounts attributable to LTS is in utter conflict with the Joint Board's recent recommendation that the Commission ensure 'that any efforts to replace implicit support in interstate access charges with explicit support do not jeopardize the reasonable comparability standard, or harm consumers generally, or any class of consumers in particular.'" citations omitted.)

[12] *See* 47 C.F.R. § 69.502 ("Projected revenues from the following shall be deducted from the base factor portion to determine the amount that is assigned to the Carrier Common Line element . . . . The portion of per-line support that carriers receive pursuant to § 54.303.")

used to offset intrastate revenue requirements. Because LTS is not included in the calculation of proxy-based support amounts, it should not be considered part of "hold harmless" support amounts either. In the event the Commission includes LTS in "hold harmless" support calculations, however, LTS must not be subject to phase-out at the end of the interim period, but should instead be continued for all NECA pool participants.

Respectfully submitted,

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January 3, 1999

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