

January 19, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

VIA ELECTRONIC FILING

Re: CC Docket No. 96-45

Dear Ms. Salas:

Transmitted herewith, on behalf of NRTA and OPASTCO, is an electronic filing of our reply comments in the above-referenced rulemaking proceeding.

In the event of any questions concerning this matter, please communicate with this office.

Very truly yours,

Margot Smiley Humphrey

Enclosure

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

In the Matter of)	
)	
Federal-State Joint Board on)	
Universal Service:)	CC Docket No. 96-45
Promoting Deployment and)	
Subscribership in Unserved)	
and Underserved Areas, Including)	
Tribal and Insular Areas)	

REPLY COMMENTS OF NRTA AND OPASTCO

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REPLY COMMENTS OF NRTA and OPASTCO

The National Rural Telecom Association (NRTA) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) submit these reply comments to respond to comments filed December 12, 1999 in the above-captioned proceeding. NRTA is an association of incumbent local exchange carriers (ILECs) that obtain financing under Rural Utilities Service (RUS) and Rural Telephone Bank (RTB) programs. OPASTCO is a trade association of over 500 independently owned and operated ILECs serving rural areas of the United States.

1. INTRODUCTION AND SUMMARY

NRTA and OPASTCO members are “rural telephone companies” that are designated as Eligible Telecommunications Carriers (ETCs) for their rural study areas. The two associations urge the Commission to heed the compelling demonstrations in the record that the acute problem

of low subscribership in some tribal areas results from unusually low income levels and often-ailing economies. There is no showing in the record that the Commission lawfully can or should preempt the states' statutory role of designating ETCs and determining if competing ETCs in rural ILEC-served areas will advance or hurt federal universal service objectives. Low income problems in these areas are better solved by improving Lifeline and Link-Up support and adopting support for some long distance calling and Internet access in areas with unusually low income levels than by encouraging duplication of ETC designations to receive high cost support – and the high cost support bill for the nation's ratepayers – simply for the sake of adding “competition” for rural “support dollars” or by another technology.

The record also fails to demonstrate that the Commission lawfully can or should preempt state designation authority for all or some CMRS providers on the pretext that they are not subject to state jurisdiction. Instead of complicity in CMRS providers' efforts to prevent states from carefully scrutinizing whether another ETC would advance the public interest in a rural ILEC study area, the Commission should allow states to exercise that responsibility to protect rural and nationwide consumers, rather than favoring would-be subsidized competitors by federal intervention and preemption and a lax public interest standard. The need for state public interest authority is confirmed by the CMRS providers' efforts to secure support, while avoiding any meaningful scrutiny of how they use it and how they advance the Act's paramount universal service goals.

II. EXCEPT FOR TRIBALLY-OWNED TELEPHONE PROVIDERS OR STATES THAT DISCLAIM DESIGNATION AUTHORITY, THE RECORD FAILS TO SHOW THE NEED OR THIS COMMISSION'S AUTHORITY TO PREEMPT STATE DESIGNATION AUTHORITY

There is widespread support in the record for federal action to improve the low telephone penetration in tribal lands, but comments differ as to the cause and the proper federal remedy. In general, commenters indicate (e.g., RUS, pp.7-8; Fort Belknap Community Council, p.1; GRTI, p. 3) that below-average subscribership in tribal areas is the result of economic conditions and low income, not just the higher cost of serving remote and sparsely populated areas. However, the Crow Tribal Council (pp. 1-3) thinks that the low penetration levels in its tribal lands are the result of the current lack of competition, which it suggests access to wireless service could alleviate.

The actual experience of a wireless provider in another tribal area suggests that wireless competition is not a panacea for low penetration on reservations. SBI, a non-tribal wireless provider, confirms (p. 3) that “despite several aggressive marketing efforts, SBI cannot get many of these people [on the Navajo reservation] to subscribe to its wireless service simply because the median per capita income on the reservations is approximately \$5,000.”¹ GRTI, the tribally-owned ILEC that serves the Gila River tribal lands, explains (pp. 1-4) that competition for tribal carriers can have adverse effects, prevent cost recovery and impede network advancements. RUS (p. 9, 11), too, reiterates the warning of the tribal spokespersons quoted in the NTCA paper against “quick fixes” with wireless or out-of-date wireline technology that cannot be upgraded to

¹ Comments are cited herein by the acronym or other abbreviated name used by the party and the page where the referenced material appears.

offer advanced capabilities as the need for increased data speed evolves into a necessary component of universal service pursuant to section 254(c). Rather than providing a preference to today's limited technology,² RUS suggests (10) that support for currently non-upgradable voice-only capability should be temporary, at most. Thus, the Commission must be careful that an ill-judged effort to stimulate ETC competition does not, as RUS and Gila River have warned, leave Native Americans with a second-class level of universal service in the future, as the definition evolves.

What the Crow tribe and others mean by lack of competition, moreover, seems actually to reflect dissatisfaction with the service area boundaries of the ILECs that already serve them, which delineate which calls are local and which incur toll charges. Other parties recommend directly responsive remedies, such as providing some support for toll calling or Internet access (e.g., State of Alaska, pp. 19-26), increased Lifeline and Link-up support to recognize the higher poverty levels (e.g., RUS, pp. 9, 12; GRTI , n. 10) or state-regulated revisions in calling scope, to the extent they do not force local rates to rise (State of Alaska, pp. 19-20). The Commission should adopt competitively neutral measures that recognize the low-subscribership problem on tribal lands as a problem of unusually low income levels and often-ailing economies.

² Qualcomm confirms (p.7) that current wireless technology is incapable of providing the increased data speeds that the Commission has recognized elsewhere are quickly becoming necessary to provide comparable opportunities in rural and urban areas.

The Crow Tribal Council's suggestion that a second ETC designation for a wireless provider would provide the "competitive" choice of a different local calling area also misses the connection between low income and low penetration.³ If income levels on tribal lands prevent households from subscribing at all or confront them with concerns about excessive toll bills, the proper Commission remedial tools should be crafted under its low income program, not the distinct high cost program. The high cost program is designed "to further the objective of

³ It is curious that the General Counsel for the Crow Tribal Council in Montana seeks support for wireless providers because "[r]esidents of the Crow Reservation also lack satisfactory wireless telephone service which is especially problematic for the Crow Tribal membership." Western Wireless is urging the Commission to supplant state authority to designate it as an ETC for the entire Crow reservation, assuring the Commission that "Western Wireless currently provides the supported universal services and functionalities enumerated in Section 54.101(a) of the Commission's rules throughout the company's cellular service area, including the Crow reservation." Western Wireless, Petition for ETC Designation and Related Waivers, p. 4 (filed August 4, 1999). Far from confirming this claim, the Crow spokesman offers only the lukewarm assertion (p. 2) that "a wireless telephone service provider would possibly constitute an additional cost effective solution" to the challenges met in serving the Crow Reservation.

making communication service available to all Americans at reasonable charges”⁴ Lifeline and Link-Up support will provide a more efficient and less costly way to deal with pockets of very low income levels – whether on tribal lands or in the inner cities.⁵

The supposed competitive choice based on service area boundaries that CMRS providers tout is not a choice based on carrier-controlled price or service competition. Instead, it is the result of differences in regulation and service area composition between ILECs and CMRS carriers. ILECs operate in service areas that were defined by state regulators in the past when small and rural independent companies and cooperatives undertook to make the heavy investments necessary to serve more sparsely-populated, remote and costly to serve areas. The rural ILECs’ service areas were generally the “leftovers” after the larger companies had selected the more profitable markets. Consequently, these rural ILEC service areas that large ILECs were unwilling to serve contrast with CMRS providers’ very large FCC-conferred licensed service areas, where different factors, such as road placement, generate high volume, profitable traffic. It would be both unfair and unlawful for the Commission to wrest jurisdiction over ETC designations from the states in tribal areas (or for CMRS providers) to give preference to carriers whose service areas the Commission controls. The huge CMRS areas would be “competitively”

⁴ Rural Telephone Coalition v. FCC, 838 F. 2d 1307, 1315 (D.C. Cir. 1988).

⁵ NRTA and OPASTCO recognize that the Commission must still resolve the question, among others, of how to adjust its low income support program and various other rules to recognize the differences among ETCs that are ILECs, CLECs or CMRS providers.

attractive because they, like the non-rural companies the law treats differently for universal service purposes, have broad markets with varied characteristics and can provide service at an internally-averaged, implicitly subsidized rate in these parts of their areas. It is not competitively neutral and conflicts with the universal service principal the Commission added pursuant to §254(b)(3)(7) to give wireless technology a competitive advantage because of the huge licensed service areas the Commission has chosen to grant, thus penalizing the ILECs that took on the task of bringing telephone service to previously neglected small and rural markets.

In addition to the record's lack of evidence that there is a need for Commission preemption of state ETC designation authority to rectify the problem of unusually low income levels on tribal lands, reflected in low subscribership and inability to afford toll calling, the record also fails to justify Commission preemption of state ETC designation authority for tribal areas – other than for tribally-owned telephone companies. Representatives of tribes in South Dakota and Montana “encourage the FCC” (in virtually identical words) “to expedite federal low income and administrative procedures which clearly establish a universal service system at the federal level which recognizes the sovereign status” of such tribe as a sovereign nation.⁶ Taking the views of tribal authorities into account is necessary, to be sure, but a tribe need not assert sovereignty as a bar to state jurisdiction to get its voice heeded. If a tribe's sovereignty actually excludes state jurisdiction over any carrier that serves on its lands, despite the Commission's own holding that a carrier need not be fully subject to state jurisdiction for a state to have designation authority, that conflict should have been apparent long before now. Yet the Commission accepted

⁶ Rosebud Sioux Tribe Utilities Commission, p. 1 (attaching a Western Wireless “Reservation Profile”); see also Crow Tribal Council at pp. 2-3

certifications from carriers to serve as ETCs throughout the nation, including virtually all tribal lands, without any tribal sovereignty challenges except in the case of tribally-owned carriers. Moreover, telephone service is available on most tribal lands pursuant to state authorizations for ILECs. If the mere existence of a tribal authority is enough to preclude state authority or enable the Commission to preempt, it is unclear how the states authorized service by the current serving ILECs, let alone where this Commission derives the authority to designate ETCs or authorize wireless service.⁷

⁷ Western Wireless suggests a convoluted theory about how the Commission could supplant state jurisdiction only to the extent that it would further Western Wireless's quest for support. Its notion is that the Commission would have jurisdiction for targeted tribal service, while states would retain jurisdiction over larger service areas where tribal service is "incidental." According to Western Wireless, state authority "over all carriers as to non-ETC matters would, of course, remain unchanged" (fn. 10). Nevertheless, it goes on to say that, exercising its purported jurisdiction over non-incidental tribal service, the Commission would have authority to designate reservations "and incidental surrounding areas" as targeted study areas. Western Wireless does not explain how this jurisdictional tangle would be sorted out, especially for the "incidental" areas that seem to be subject to both state and federal jurisdiction.

The comments of several parties⁸ have provided extensive and dispositive legal analyses and legislative history references that lay to rest the notion that § 214(e)(6) creates a broad exception to the statutory state ETC designation jurisdiction for any tribal area that belatedly asserts a conflict with its sovereignty. There is no need to burden the record with repetition of these record showings. As our opening comments demonstrated, the legislative history proves that Commission jurisdiction was meant to fill a jurisdictional vacuum via a narrowly delineated exception to state authority only where the state lacks jurisdiction over the carrier because of lawfully-exercised tribal sovereignty.⁹

NRTA and OPASTCO, like NTCA (Section III, C.), explain that when the state asserts jurisdiction that the tribal authority consistently disputes, the Commission should look at whether there is a lack of jurisdiction over the carriers that would bring the designation authority within the limited scope of section 214(e)(6). And all comments seem to agree that the Commission should find lawful means to improve the low subscribership levels on tribal lands.

⁸ NRTA and OPASTCO, pp. 15-19; NTCA, Section III; TDS Telecom, pp. 13-18; SDITC, p.4.

⁹ NRTA and OPASTCO, pp. 16-17; NTCA, Section III..A.;TDS Telecom, pp. 16-17; see also State of Alaska, pp.11-14).

Consequently, the Commission should promptly adopt improved federal Lifeline and Link-Up support for tribal residents. The Commission should also consider including some federal Lifeline support for toll calling and Internet access for areas where, as is the case on many (but perhaps not all) tribal lands,¹⁰ income levels are well below national averages, economies are troubled, and access to more affordable telecommunications may be one key to economic recovery. Where states have been exercising jurisdiction over local exchange providers for years, as is the case for most reservations and other tribal lands except where the tribal authority owns and operates the reservation's telephone company, there is no need and no indication that Congress intended the Commission to intervene or preempt.

III. THE STATUTE DOES NOT PERMIT, LET ALONE REQUIRE, PREEMPTION TO ACCOMMODATE CMRS PROVIDERS OF STATES' STATUTORY ETC DESIGNATION AUTHORITY OR STANDARDS FOR RURAL STUDY AREAS

As noted above, several comments, including NRTA and OPASTCO (p. 16), NTCA (Section III.B), TDS Telecom (pp.15-16) and CenturyTel (pp. 5-6) demonstrate that the plain meaning of the statutory language and the legislative history compel the conclusion that section 214(e)(6) applies only to tribally-owned telephone companies, and **not** to CMRS providers or services. Again we will not burden the record with repetition of these compelling statements in opening comments. As they have shown, the legislative history clearly states that existing state

¹⁰ Cf. In the Matter of Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, CC Docket No. 96-45, FCC 99-204, fn.13 (rel. Sept. 3, 1999).

authority over CMRS providers would survive the enactment of the amendment that became §214(e)(6).

CMRS providers, disgruntled that several states have not designated them as ETCs, continue to urge that section 214(e)(6) would justify the Commission in repudiating existing state jurisdiction to designate wireless providers as ETCs under statutory standards, as interpreted by the Fifth Circuit.¹¹ Rather than showing why their demands are in the interest of rural or nationwide consumers, CMRS providers rest their whole case on the presumption that competition will unfailingly serve the public in rural markets. Indeed, they argue that the Commission should absolve them of virtually any responsibilities or accountability once they occupy ETC status, apparently because they will bring competition. The Commission should follow the language and intent of Congress in enacting the universal service and designation provisions of the 1996 Act, however. In particular, it should not try to sidestep the provision requiring state scrutiny of requests for additional ETC designations in rural ILEC areas under a public interest standard, which draws on each state's superior familiarity with conditions in rural areas within its boundaries.

¹¹ Texas Office of Public Utility Counsel v. FCC, 183 F.3d 393(5th Cir. 1999), petitions for rehearing and rehearing en banc denied (Sept. 28, 1999), petition for certiorari pending (Texas OPUC).

CMRS providers urge federal preemption of state designation authority conferred by Congress to safeguard consumers in areas served by rural telephone companies, as defined in the law.¹² Section 214(e)(2) requires state designation of an additional requesting ETC in an area served by one of the larger ILECs. However, for areas served by the defined rural ILECs, the designation provision authorizes a state to designate an additional ETC only after it makes a required finding that another ETC designation “is in the public interest.” Plainly, Congress made the determination that the public interest would be advanced by designation of more than one ETC in non-rural study areas. Equally plainly, it recognized that designating and subsidizing a competing ETC in the areas served by small and rural telephone companies could not be assumed to be in the public interest.

Senator Dorgan, who introduced the public interest finding requirement for additional ETC designation in rural ILEC areas, left no room for doubt about the intent of Congress to create a more rigorous test for state designation in these rural ILECs’ study areas. He said:

[T]he protection of universal service is the most important provision in this legislation. S.652 contains provisions that make it clear that universal service must be maintained and that citizens in rural areas deserve the same benefits and access to high quality telecommunications services as everyone else. This legislation also contains provisions that will ensure that competition in rural areas will be deployed carefully and thoughtfully, ensuring that competition benefits consumers rather than hurts them. Under this legislation, the State will retain the authority to control the introduction of competition in rural areas and, with the FCC, retain the responsibility to ensure that competition is promoted in a manner that will advance the availability of high quality telecommunications services in rural areas.¹³

¹² 47 U.S.C. §153(37).

¹³ Congressional Record of June 8, 1995, S 7951-2.

Western Wireless wants the Commission to substitute an inquiry limited to determining “the benefit that consumers could realize by the designation as an additional ETC,”¹⁴ rather than letting the states make the statutorily mandated state public interest finding that must precede designation of any additional ETC in an area served by a rural telephone company. Indeed, Bell Atlantic (p. 9) urges the Commission to “encourage carriers to compete for universal service dollars,” in order to “help to achieve the goals of universal service.” In contrast, Professor John Panzar, an economist who has studied the impact of competition on the economics of providing telephone service efficiently in high cost rural areas, warned against competition for support dollars as an economic pitfall of subsidized rural “competition.”¹⁵ The Commission should reject the effort to eliminate or eviscerate the statutory presumption in Senator Dorgan’s rural designation provision that competition in a rural ILEC area may “hurt” consumers, so that prior state scrutiny of proposals to subsidize competitors is expressly required in the law.

Any adverse impacts on the serving ETC and the customers in areas the would-be ETC may not serve are equally, if not more germane to a state public interest inquiry than the theoretical benefits assumed to accompany competition. The abstract benefits of ETC competition, in fact, are the very benefits Congress chose not to assume or direct the states to assume for rural ILEC service areas. Indeed, in those service areas, the Commission now makes the average study area-wide support based on the ILEC’s costs portable to a new ETC, even if it

¹⁴ Western Wireless at 8. See also BA at 9.

¹⁵ John C. Panzar, Competition in the Local Exchange: Appropriate Policies to Maintain Universal Service in Rural Areas, pp. 17-27.

serves only part of the ILEC's study area or only the ILEC's below-average-cost customers. The adverse impact on rural ILECs' most rural customers threatened by this failure to allow "disaggregation" or "targeting" of support to reflect cost differences within the rural ILEC's service area cannot rationally be assumed away by looking only at what benefits some customers might enjoy. A new ETC would get the ILEC's cost-based support, moreover, even though CMRS providers and others generally presume that wireless service to the highest cost customers will be less costly than ILEC service.¹⁶

¹⁶ See, e.g., FNPRM, ¶ 18.

It would also be a mistake to assume that CMRS providers would be subject to sufficient supervision to ensure that their support advances the statutory universal service objectives. The filings of CMRS providers indicate that they expect and demand to be free of virtually all oversight of their “universal service” role. Boiled down to the essentials, the wireless industry’s position is that its members have a right to an aggressively preemptive reading of section 214(e)(6) by this Commission to support immediate federal ETC designation and support payments, at least where state action has not already granted ETC designation.¹⁷

The statute’s universal service aims focus on “just, reasonable and affordable rates,” reasonably comparable services and rates in rural and urban areas and rural access to advanced and information services. CMRS providers’ comments tend to take consumer benefits as a given because of their very presence in a rural market as ETCs. Thus, CMRS providers resist any “regulation” to ensure that the ratepaying public throughout the United States that ultimately bears the cost of universal service support actually gets something for its money from the designation of wireless ETCs. For example, wireless providers and associations make a variety of demands, such as:

A CMRS provider designated as an ETC –

(a) cannot be required to fulfill the statutory requirement in §214(e)(2) that a “requesting carrier” must actually be providing universal services to merit designation;¹⁸

¹⁷ Bell Atlantic proposes at p. 16 that the Commission could let states with CMRS regulation continue to designate, but invoke its primacy if wireless designation were impaired.

¹⁸ Western Wireless at 8.

(b) cannot be subjected to any “re-regulation” as a condition for ETC status,¹⁹ apparently in spite of the section 332(c)(3) provisions for maintaining or restoring even rate regulation;²⁰

¹⁹ Bell Atlantic at 8. In contrast, Section 332(c)(3) specifically authorizes state regulation that goes beyond the limits in that section in three circumstances. It allows state regulation of “other terms and conditions,” even while generally forbidding rate and entry regulation. The record contains nothing to support the bare assertion that ETC designation is a form of rate or entry regulation. As NRTA and OPASTCO showed in their opening comments (p. 15), the

Commission held early in the implementation process that full state jurisdiction is not necessary for the exercise of designation authority. CMRS providers are free to enter throughout their huge licensed service areas without obtaining ETC designation and are currently setting their rates without being designated as ETCs. Section 332(c)(3) also provides that CMRS providers are not exempt from state universal service requirements “where such [CMRS] services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State.” CenturyTel states (p.6) that this test is met when a CMRS provider assumes ETC status.] In addition, the CMRS “exemption” provision allows a state to “a State may petition the Commission for authority to regulate the rates for any commercial mobile service” and requires the Commission to grant the petition if the “State demonstrates that either (i) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory; or (ii) such market conditions exist and such service is a replacement for land line telephone exchange service for a substantial portion

(c) cannot be held to any state requirements beyond the section 214(a) requirements, in spite of the Fifth Circuit's contrary holding;²¹

(d) cannot be subjected to state requirements for affordable rates or services substitutable for ILEC services;²²

of the telephone land line exchange service within such State.”

²⁰ Texas OPUC at 418, fn. 31 and accompanying text.

²¹ Bell Atlantic at 15. The Fifth Circuit expressly ruled that states could impose additional requirements for ETC designation, so long as the requirements did not so exclude designations as to amount to an obstacle to competition within the reach of § 253. Although a major part of the Fifth Circuit's decision on other universal service issues dealt with the rights of wireless paging providers, Bell Atlantic asserts that the court's decision that the law allows additional state requirements, such as quality of service requirements, has no bearing on CMRS providers because the opinion did not expressly discuss them.

²² Western Wireless at 8. TDS Telecom explained (pp. 10-13) that if an additional ETC's service is not substitutable for the ILEC's universal service, the area's subscribers could be left with substandard service, such as no equal access to competing interexchange providers via 1+ dialing and no choice of a provider that provided that service in the event that the incumbent exercised its right to relinquish its ETC status.

(e) must not be subject to state evaluation of whether support is used for universal service purposes, as section 254(e) mandates;²³

(f) cannot be required to “segregate universal service support dollars from other revenues” to indicate how the support payments have been used and must be allowed to put support in their “general revenues,”²⁴ despite the requirement of section 254(k) that universal service not be allowed to support more than a fair share of costs;

(g) must not be subject to any prescribed free local usage;²⁵ and

(h) must not not even be required to identify specific customers which they have “captured” from the previous universal service provider.²⁶

Bell Atlantic complains that its requests are necessary to remove a supposed “landline bias.” However, it is apparent that the CMRS industry expects to receive support without

²³ PCIA, for example, has sought clarification of the Commission’s universal service policies to allow CMRS providers to “self-certify” that their use of support payments is lawful. Petition for Reconsideration and/or Clarification of the Personal Communications Industry Association, pp. 2-3 (filed January 3, 2000).

²⁴ Bell Atlantic at 20-21.

²⁵ Id. at 21.

²⁶ Id. at 22. In this regard, although Bell Atlantic seems to expect so receive support regardless of whether it captures an ILEC line or serves a previously unserved customer, it identified one respect in which the current rules are wrong, correctly stating that ILECs should not lose support for any line for CMRS provider receives support.

modifying its current operations in any way to reflect the receipt of funds collected from the nation's ratepayers by every provider of interstate service and without even showing that it is using the subscribing public's support money for its statutory purposes.

The Commission should not lend its support to transferring the benefits intended for customers in high cost areas to CMRS providers that demand universal service support without universal service obligations. Congress put the states in charge of deciding when or whether subsidizing a second or even more additional providers in a thin rural market would justify a finding that the public interest would be served, no doubt because the states have superior knowledge about the actual conditions in their rural communities than this Commission. The law and its legislative history fail to support the notion that states lack jurisdiction over designation of CMRS providers as ETCs. The Commission should not strain for an untenable reading of the law to prevent states from making the sensitive determinations Congress committed to their care, least of all when some CMRS providers make it evident that what they want is state jurisdiction if it is favorable and fast, with federal preemption as a quick backstop when a state does not designate a wireless carrier as an ETC.²⁷

IV. CONCLUSION

For the foregoing reasons, the Commission should not preempt state ETC designation authority unless there is a clear absence of state authority over a carrier. This is not the case for carriers that serve the vast majority of tribal lands or for CMRS providers. The statute calls for public interest determinations by the states in rural ILEC study areas before another ETC may be

²⁷ Bell Atlantic at 16 .

designated. The Commission should apply §214(e)(6) only in the narrow situations for which it is intended, rather than substituting itself for the rural public interest guardian that Congress chose for designation purposes, in order to distribute support with virtually no oversight. Where, as in many tribal areas, subscribership is below-average because of low income and economic concerns, the Commission should adopt added Lifeline and Link-Up support and support for some long distance calling and Internet access for low income subscribers.

Respectfully submitted,

NRTA

By: /s/ Margot Smiley Humphrey

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January 19, 2000

CERTIFICATE OF SERVICE

I, Victoria C. Kim, of Koteen & Naftalin, hereby certify that true copies of the foregoing NRTA/OPASTCO's Reply Comments on the rulemaking proceeding, CC Docket No. 96-45, have been served on the parties listed below, via first class mail, postage prepaid on the 19th day of January 2000.

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