February 8, 2000

Ms. Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street S.W.
TW-A325
Washington, D.C. 20554

Re: Ex Parte Notice
CC Docket Nos. 96-115, 96-98, and 99-273

Dear Ms. Salas:

On Wednesday, February 8, 2000, Scott Reiter and Daniel Mitchell of the National Telephone Cooperative Association met with William A. Kehoe III, and Daniel Shiman of Policy and Program Planning Division of the Common Carrier Bureau. In that meeting we discussed issues identified in the enclosed one page handout which relate to NTCA's comments in the dockets listed above.

In accordance with the FCC's rules, an original and two copies of this letter are being filed with the Secretary's office. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Daniel Mitchell

Daniel Mitchell
Senior Regulatory Counsel
Legal & Industry Division

cc: William A Kehoe III
Daniel Shiman

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WHY THE COMMISSION SHOULD ADOPT A 42 CENTS PRESUMPTIVELY REASONABLE PER LISTING RATE FOR RURAL TELEPHONE COMPANIES

1. The Commission has recognized that 4 cents per listing may be not enough to recover the costs of small and rural LECs for providing listings to directory publishers. *See Third Report and Order,* ¶ 105.

2. The Association of Directory Publishers (ADP) has specifically stated that it "understands that certain small telecommunications carriers may have costs in excess of the four cent benchmark" and that "an exemption from the benchmark may be appropriate for rural telecommunications carriers" as defined in section 153 (37). *Comments of CenturyTel and TDS in Support of NTCA Petition for Reconsideration,* p. 4, filed on January 11, 2000, (quoting a letter form Michael F. Flynn, Counsel for ADP, to Magalie Roman Salas, Secretary, FCC, pp. 2-3, filed on September 17, 1998).

3. NTCA has provided cost-based and market-based evidence which demonstrates that a cost-based rate of 42 cents per listing would be reasonable of small carriers. *NTCA's Petition for Reconsideration,* pp. 6-9, (November 4, 1999) and *NTCA's Reply Comments,* pp. 2-5, (January 21, 2000).

4. NTCA's proposed 42 cents rate represents a 16.67 percent increase over the rural telephone companies' 36 cents per listing cost-based average to provided rural companies with a reasonable contribution to their common costs and overheads. *NTCA's Reply Comments,* pp. 2-5 (January 21, 2000). NTCA's proposed rate is consistent with the Commission's 4 cents rate, which represents a 14.29 percent increase over the Bell operating companies' 3.5 cents per listing cost-based average to provide the BOCs with a reasonable contribution to their common costs and overheads. *See Third Report and Order,* ¶¶ 92-95 and note 213.

5. NTCA's request for a separate 42 cents rate is endorsed by over 1,300 small rural telephone companies represented by NTCA, the National Rural Telephone Association (NRTA), the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), CenturyTel, Inc., and TDS Telecommunications, Inc. In addition, NTCA request is also supported by the Yellow Pages Publishers Association (YPPA). *See the comments filed by these parties on January 11, 2000 in this proceeding.*

6. ADP has failed to provide any cost evidence to rebut the cost-based rates provided by 28 rural telephone companies in this proceeding or demonstrate that a rural telephone company rate of 42 cents per listing is unreasonable. *ADP's Comments in Opposition,* pp. 5-6, and *ADP's Reply Comments,* pp 2-3.

7. Directory publishers have abused the FCC's initial 4 cents ruling by using it to attempt to threaten, intimidate and coerce small carriers into providing their listings at below cost prices. *NTCA's Petition for Reconsideration,* pp. 2-4, Attachments 1-3, and *NTCA's Reply Comments,* pp. 3-4.

8. When the Commission has a rule, such as its 4 cents presumptively reasonable directory listing rate for Bell operating companies, which has a significant economic impact on a substantial number of small entities, such as rural telephone companies, the Regulatory Flexibility Act (RFA) permits the FCC to adopt an alternative rule or rate to obtain its objective in a less burdensome way on small entities. The alternative 42 cents rate for rural telephone companies would be consistent with the RFA and would allow the Commission to achieve its goal of facilitating efficient competition in the directory publishing market, permit rural carriers to recover their costs for providing listings to publishers, and minimize, if not eliminate, the potential for litigation between small carriers and publishers over rates. *NTCA's Reply*

Comments, pp.4-5, and *Third Report and Order,* ¶¶ 23, 93-98, 102-105.