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ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

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Jonathan Askin
General Counsel

February 10, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie R. Salas, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: Written *Ex Parte* Statement of the Association for Local Telecommunications Services

In the Matter of:

Access Charge Reform	)	**CC Docket No. 96-262**
	)	
Price Cap Performance Review for Local Exchange Carriers	)	**CC Docket No. 94-1**
	)	
Low-Volume Long Distance Users	)	**CC Docket No. 99-249**
	)	
Federal-State Joint Board on Universal Service	)	**CC Docket No. 96-45**

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(1) of the Commission's Rules, the Association for Local Telecommunications Services ("ALTS") submits this written *ex parte* statement of ALTS' position on the modifications to the Commission's access charge rules proposed by the Coalition for Affordable Local and Long Distance Services ("CALLS"). The Commission placed the CALLS proposal out for comment in the above-captioned docketed proceedings, and ALTS filed comments in those proceedings on November 12, 1999. In this *ex parte* statement, ALTS reiterates its position on the CALLS proposal and discusses additional issues.

1. The Record In the Instant Proceeding Presents a Cross-Industry Consensus that the CALLS Proposal Cannot Be Adopted Without Substantial Modification

The more than 40 parties that filed comments on the CALLS proposal reflect a cross-section of the telecommunications industry, and represent state regulators, public interest groups, government agencies, interexchange carriers, competitive local carriers, and providers of local and long-haul backbone service, in addition to incumbent local exchange carriers. Among the

non-ILEC commentors, there is overwhelming support for the position that, as a matter of law and policy, the CALLS proposal cannot be adopted in its present form.

Most commentors – including ALTS – applaud CALLS for bringing innovative ideas before the Commission, and find various elements of the CALLS proposal that they recommend for adoption. These same commentors, however, all identify critical elements of the CALLS proposal that would profoundly distort competition in local markets, would unfairly raise end user rates, and would violate the Communications Act and established Commission policy.[1] Despite the input received by this broad group of commentors, ALTS is concerned over recent news reports that the Commission continues to seek brokerage of a deal with only a small group of interested parties. While CALLS attempts to portray their coalition as reflecting a cross-section of the telecommunications industry, it does not, in fact, represent the interests of CLECs, state regulators, consumer groups, or even most interexchange carriers.

2. *There Is No Economic or Policy Justification For Creating a New Universal Service Fund to Subsidize ILEC Services, and No Data In the Record of This Proceeding Supports Such a Fund*

Perhaps the one issue that drew the widest and most outspoken opposition was the CALLS proposal to establish a major new Universal Service Fund to assist ILECs in recovering revenues lost due to reductions in access charges. This proposal was opposed by all segments of the industry, including the regulatory commissions of California, Florida and Ohio; government organizations, including the General Services Administration; competitive carriers, including Intermedia, MCI/WorldCom and Time Warner; backbone carriers, such as Level 3; and trade associations, including ALTS, the Competitive Telecommunications Association ("CompTel"), and the Telecommunications Resellers Association ("TRA"). These commentors demonstrated that the establishment of a $650 million "slush fund" to make ILECs whole for access reductions has nothing to do with the preservation of Universal Service, and would have a profoundly adverse impact on competitive local service providers. The record of the instant proceeding therefore compels rejection of this aspect of the CALLS proposal.

Moreover, absent action by the Commission, it appears that any "Universal Service" subsidy established as a result of the CALLS Proposal would inure exclusively to the benefit of the ILECs. As ALTS noted in its comments, competitive carriers to date have found it difficult – if not impossible – to obtain qualification as "eligible telecommunications carriers" and so have been denied access to Universal Service subsidies when they serve high-cost and low-income subscribers. Until the Commission takes comprehensive action to correct this situation, any new "Universal Service" fund would operate as a transfer payment from competitive carriers to ILECs that make ILECs whole for revenues lost to competition. This would be a profoundly

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[1] See Reply of the General Services Administration ("GSA"), arguing that a set of recommendations developed by a small group of carriers should not be allowed to set policy, especially when it would disrupt policies put in place following extensive rulemaking proceedings involving the participation of the entire industry. GSA agrees with ALTS' position that replacing such rulemakings with terms brokered by a few parties is fundamentally inconsistent with the public interest. GSA Reply at 4.

anticompetitive outcome that would fundamentally distort the markets for competitive local services. In a competitive environment, ILECs should not have exclusive access to a Universal Service Fund to make up for reductions in historical revenue streams; ILEC revenues in a marketplace subject to competitive forces should naturally increase in some areas and decrease in others without an *ad hoc* make whole mechanism in the form of a Universal Service slush fund for the ILECs.

3. There Is No Economic or Policy Justification For Shifting the Recovery of Switching Costs to Flat Monthly Charges

As ALTS stated in its comments, that part of the CALLS Proposal that recommends shifting an additional 25% of local switching costs to flat-rated monthly charges must be rejected. Such a decision would overturn well-established Commission precedent finding that a substantial amount of switching-related costs are traffic sensitive, and there is no showing in the record of this proceeding that would justify such a departure. Indeed, the new generation of switches being deployed by ILECs are more modular and scalable than the switches that have traditionally been deployed in ILEC networks. This means that switching costs are becoming more traffic-sensitive, not less, and further militates against the shift to flat-rated cost recovery mechanisms.[2]

Thus, the transfer of switching costs is a non-cost based transfer of traffic sensitive costs to reduce charges to accommodate the IXCs and at the same time protect ILEC revenue by hiding charges in the residential Subscriber Line Charge ("SLC") and the Universal Service Fund. As such, it is clear that the CALLS Proposal is nothing more than a non-cost based "deal" that would accommodate large IXC cries for rate reductions, while protecting RBOC switched access revenue at the expense of competition.

4. The Commission Should Take Further Action to Adopt Procompetitive Recommendations from the CALLS Proposal

As ALTS noted in its comments, the CALLS recommendation that ILECs not be allowed to establish geographically deaveraged SLCs until they deaverage rates for unbundled network elements ("UNEs") is a sound proposal that should be adopted by the Commission, whether or not it takes further action on the CALLS Proposal. ALTS reiterates its position that the Commission should further clarify that SLCs may only be deaveraged if they employ the same rate zones used to deaverage UNE rates, and if the rate differential from rate zone to rate zone is the same for both SLCs and UNEs.

5. Conclusion

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2 See *Access Reform First Report and Order*, 12 FCC Rcd 15982, 16040, para. 134, fn.167 (1997). ("the costs of modern digital switches is actually predominantly [traffic sensitive].")

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The record in the above-referenced proceeding provides a compelling case that the Commission cannot – as a matter of law and policy – adopt the CALLS proposal as it currently stands. Nevertheless, the CALLS Proposal does raise many important issues that deserve a broader and more informed debate. ALTS therefore urges the Commission to issue a Notice of Inquiry to identify the full range of issues, rules and policies that are impacted by the CALLS proposal, and to develop a comprehensive record on the many complex issues raised by it. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

By: _____

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