

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

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of	)	
	)	
Federal-State Joint Board	)	CC Docket No. 96-45 /
on Universal Service	)	
	)	DA 00-1536
Recommendations for Phasing Down	)	
Interim Hold-Harmless Provision	)	

**REPLY COMMENTS OF  
THE RURAL INDEPENDENT COMPETITIVE ALLIANCE**

The Rural Independent Competitive Alliance ("RICA"), by its attorneys hereby submits its reply comments in response to the Federal Communications Commission's ("FCC's" or "Commission's") Public Notice released July 11, 2000, in the above-captioned matter. In the Public Notice, the Common Carrier Bureau sought comment as to the Federal-State Joint Board on Universal Service's ("Joint Board's") Recommended Decision for phasing down the interim hold-harmless provision of the new, forward-looking high-cost universal service support mechanism for non-rural carriers.<sup>1</sup>

RICA, an alliance of Competitive Local Exchange Carriers ("CLECs"), is a newly-formed organization, the members of which generally operate in rural areas, bringing the first, if not only, competitive local exchange and access service to vast geographic areas of the United States that otherwise would remain captive to the incumbent local exchange carrier ("ILEC"). RICA agrees with the Joint Board and Commenters that current FCC Rules do not provide sufficient universal

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<sup>1</sup> See *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Recommended Decision, FCC 00J-1 (rel. June 30, 2000) ("Recommended Decision").

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support for rural carriers. Accordingly, RICA urges the Commission to revise its Rules such that sufficient and predicable support will be provided to all rural carriers, including rural CLECs.

**I. RICA agrees with the Joint Board and Commenters that Section 54.305 must be revised**

In its Recommended Decision, the Joint Board brought to the Commission's attention the negative consequences imposed by Section 54.305 of the Commission's Rules with regard to transfers of exchanges between carriers that are not both receiving support based on the forward-looking mechanism and "strongly encourage[d] the Commission to consider an alternative to Section 54.305 at the earliest opportunity."<sup>2</sup> RICA agrees with the Joint Board's conclusion and supports the Commenters that also urged the Commission to adopt an alternative to Section 54.305. *See, e.g.*, the Comments of the National Exchange Carrier Association, Inc., the National Rural Telecom Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies ("The Associations") at 5-7 (Commission should reconsider the actual effects that Section 54.305's limitation on high-cost support is having on customers in outlying high cost exchanges and revise the Rule to allow carriers acquiring high cost exchanges to receive "sufficient" support, as required by Section 254 of the Telecommunications Act); Comments of the National Telephone Cooperative Association ("NTCA") at 3-4 (urging the Commission to repeal Section 54.305 and implement an alternative rule which would allow acquiring rural carriers to receive universal support based on the average cost of all lines, including the lines in the transferred exchanges).

**II. The revised Rule should provide that the same treatment be afforded rural CLECs that receive hold-harmless support**

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<sup>2</sup>See Recommended Decision at para. 20.

Rural CLECs are local exchange carriers that provide telephone exchange and other telecommunications services, are an alternative to the telephone exchange and other services offered by the ILEC and could arguably qualify under the Communications Act's definition of a "rural telephone company."<sup>3</sup> Also, similar to rural ILECs, rural CLECs serve high-cost areas.<sup>4</sup> In fact, many rural CLECs are providing affordable advanced telecommunications services to high-cost areas where the ILEC provides only basic services at best. Accordingly, because of the similar high costs faced by rural CLECs, hold-harmless support received by rural CLECs should be excluded from phase down for the same reasons that the Joint Board proposes not to phase down the hold-harmless support of rural ILECs that acquire exchanges from non-rural ILECs.

Universal service funds are more efficiently allocated if they are to be provided on the same basis to rural CLECs and acquiring rural ILECs. Rural communities have historically been underserved, and it is often more economical for a rural CLEC to build new facilities in an area that is underserved rather than having an ILEC purchase existing facilities. This is due to the fact that the ILEC must pay market value for the existing facilities and then replace those facilities in order to provide improved service.

RICA contends that exempting the support of rural CLECs from the phase down would be consistent with the revisions proposed by the Commenters and would be in line with the Commission's Universal Service goals and in the public interest. *See* Comments of the Associations at 7 (Rule as it now stands limits the advancement of universal service; therefore,

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<sup>3</sup>*See* 47 U.S.C. § 153 (37); August 4, 2000 Ex parte letter to Dorothy Atwood (suggesting a definition of a rural CLEC).

<sup>4</sup>Many of RICA's members are CLECs that are owned by rural ILECs and are providing service to rural high-cost areas adjacent to their rural ILEC areas.

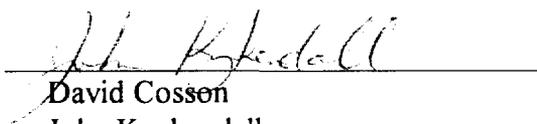
Commission should revise or eliminate the rule); Comments of NTCA at 2 (revising Rule would enable rural carriers with the ability to upgrade acquired exchanges, thus providing better service and more rapid deployment of broadband services in rural America). *See also* Recommended Decision at para. 21(Joint Board recommended that until the Commission reexamines the operation of Section 54.305 or takes some other action, the interim hold-harmless support for exchanges transferred to rural carriers should not be phased down to “ensure that rural carriers receive constant support for eligible transferred exchanges, thereby ensuring affordable access to telecommunications service in high-cost exchanges”).

### **III. Conclusion**

RICA urges the Commission to revise Section 53.305 to allow ILECs to receive “sufficient” hold harmless support and to ensure that rural CLECs receive the same “sufficient” support that is afforded ILECs. Such revisions of its Rules would be consistent with the Joint Board’s recommendations and would advance the Commission’s Universal Service goals.

Respectfully submitted,

**RURAL INDEPENDENT COMPETITIVE ALLIANCE**

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August 28, 2000

## CERTIFICATE OF SERVICE

I, Nancy Wilbourn, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Reply Comments of the Rural Independent Competitive Alliance" was served on this 28<sup>th</sup> day of August, 2000 by first class, U.S. mail, postage prepaid to the following parties:

  
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