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National Association of Regulatory Utility Commissioners

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

December 21, 2000

Magalie R. Salas, Esq.
Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

RE: EX PARTE FILINGS for CC Docket Nos. 99-68 (Inter-Carrier Compensation for ISP-Bound Traffic), 96-98 (Local Competition), CC Docket No. 96-98 (Local Competition), CC Docket Nos. 96-262 (Access Charge Reform), 94-1 (Price Cap Performance Review), 99-249 (Low-Volume Long Distance Users), 96-45 (Universal Service).

Dear Ms. Salas:

Today, I mailed the attached *ex parte* letter from NARUC Telecommunications Committee Chairman Oregon Public Utility Commissioner Joan Smith to FCC Chairman William Kennard. Copies of the letter were hand-delivered to each of the other FCC Commissioner's offices. It was also e-mailed to each commission office.

In addition, on December 20, 2000 Commissioner Smith discussed the contents of the letter with Kathy Brown from the Chairman's office and on December 15, 2000 with Dorothy Attwood of Commissioner Powell's office.

On December 19 and 21, 2000, I had similar phone conversations with the FCC's Anna Gomez, Kyle Dixon, and Jordan Goldstein.

If you have any questions about this letter, please do not hesitate to contact me at 202.898.2207 or jramsay@naruc.org.

Sincerely,

James Bradford Ramsay
General Counsel

No. of Copies rec'd 0+1
List A B C D E

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December 21, 2000

The Honorable Bill Kennard
Office of the Chairman
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

RE: EX PARTE FILINGS for CC Docket Nos. 99-68 (Inter-Carrier Compensation for ISP-Bound Traffic), 96-98 (Local Competition), CC Docket No. 96-98 (Local Competition), CC Docket Nos. 96-262 (Access Charge Reform), 94-1 (Price Cap Performance Review), 99-249 (Low-Volume Long Distance Users), 96-45 (Universal Service).

Dear Chairman Kennard:

On behalf of the National Association of Regulatory Utility Commissioners (NARUC), I write to reaffirm our serious concerns about recent reports that the FCC intends to act on a draft proposal to standardize existing state approaches to reciprocal compensation.

We appreciate the clear recognition of the important role State commissions play with respect to Sections 251-2 of the 1996 legislation inherent in your public comments. The FCC's proposed action, however, raises several concerns. In addition, it is difficult for NARUC to provide much additional comment on the FCC's potential action without more information. For example, *it is not clear from the FCC's public statements exactly how existing and future State determinations will be affected by the FCC's proposed action.*

In response to the published accounts of your statements, NARUC convened a call of affected State regulators to discuss the announced aspects of the proposal.

From the discussions on that call, one thing was readily apparent: *any action the FCC takes should not limit the States' flexibility to address reciprocal compensations issues as Congress intended – in the context of arbitrations under Section 252 of the Act.*

NARUC is concerned that any FCC action may well undermine local competition by selectively intervening in the negotiation process established by Congress to the advantage of the stronger party. Such action might also offer a blanket political solution to a fundamental economic question best handled based on local market conditions.

When Congress passed the Telecommunications Act of 1996, it delegated to State commissions the responsibility of promoting competition between incumbent local phone

companies and competitors. These delegated responsibilities include arbitrating interconnection agreements on a range of issues, including reciprocal compensation, when negotiations fail between the local companies and their competitors.

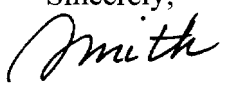
As state commissions continue to develop reciprocal compensation payment solutions, rates for certain "imbalanced" traffic will continue to drop to a level that should be less problematic. While several different solutions are being tested, a "one-size-fits-all" requirement will crowd the courts and the State commissions with additional and unnecessary litigation.

As previous NARUC comments have suggested, we are also concerned about the basis for FCC action. If, on remand, you reaffirm the jurisdictional nature of Internet traffic and continue to assert that it is "mixed" interstate and intrastate and inseverable, this redefinition raises issues about how costs would be allocated between the federal and state jurisdictions. If these related issues are not also immediately addressed, they could ultimately lead to an increase in local rates, and an increase in the level of universal service funding to support those higher rates.

If you have any specific questions about NARUC's questions on the issue of reciprocal compensation, please don't hesitate to contact my office at any time. I would be happy to assist you in learning more about this from the State perspective. You may also wish to contact Brad Ramsay, NARUC's General Counsel, at 202-898-2207 in the NARUC Washington office.

Thanks again for the public statements recognizing the State's concerns. On behalf of NARUC, I look forward to continuing to work with you on this and related issues.

Sincerely,



Joan Smith
Chair
NARUC Telecommunications Committee