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January 26, 2001

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JAN 26 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**VIA COURIER**

Magalie Roman Salas  
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445 Twelfth Street, S.W.  
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Re: *In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers, CC Docket Nos. 96-262 and 94-1, and CCB/CPD File No. 98-63*

Dear Ms. Salas:

Enclosed for filing in the above-referenced proceeding pursuant to the Commission's December 7, 2000 Public Notice Requesting Comments are an original, and eight paper copies, of the Reply Comments of CTSI, Inc.

Please date stamp and return the enclosed extra copy of this filing in the self-addressed, postage prepaid envelope provided. Should you have any questions concerning this filing, please do not hesitate to call us.

Respectfully submitted,



Harisha J. Bastiampillai

Enclosures

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

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In the Matter of )  
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Access Charge Reform )  
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Price Cap Performance Review )  
For Local Exchange Carriers )  
)  
Interexchange Carrier Purchases of )  
Switched Access Services Offered by )  
Competitive Local Exchange Carriers )

CC Docket No. 96-262

**JAN 26 2001**

CC Docket No. 94-1

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

CCB/CPD File No. 98-63

**REPLY COMMENTS OF  
CTSI, INC.**

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## SUMMARY

In considering whether to allow for a rural exemption to any benchmark that may be set for CLEC access charges, the Commission should pay heed to two principles that it has prioritized. The first principle is the introduction of competitive telecommunications services into rural and other high cost areas. The Commission has recognized that it is not enough to ensure universal service in such areas, but that is vital to see competitive services take root in such areas. The record in this proceeding has borne this out as it has been shown that many of these areas have been “forgotten” by incumbent carriers and that prior to the advent of competition, these areas were lucky to have threadbare service.

CLECs operating in rural areas have introduced a full array of competitive services offering customers in these areas this choice of services at competitive prices. CLECs operating in these areas, however, face higher costs in providing such service, particularly access service. The record of this proceeding has shown that unlike large ILECs who can utilize averaged access rates to offset these costs, or smaller ILECs who are allowed to charge higher access rates and utilize significant USF subsidies, CLECs have to rely solely on the access charges assessed in those areas to recoup the costs imposed on their network in providing such access service. The major IXCs would have the Commission preclude the recovery by CLECs of these higher costs, but such an action would not be consistent with the cost-recovery principles of the access charge system the Commission has crafted, and would competitively disadvantage these CLECs. Thus, far from encouraging the development of competitive service in rural and high cost areas, denying CLECs a rural exemption would imperil such development.

The second guiding principle for this Commission is following cost-causation and cost-recovery principles in regard to access charges. This Commission has charted a course to promote an access charge system that is reflective of actual costs. If this Commission were to fail to provide CLECs such a rural exemption it would represent a significant step backward on its desired course and perpetuate the inconsistencies and the irrationalities in the access charge system that this Commission is hopeful of eliminating. It is not enough to allow for such an exemption, however. To implement an “economically rational” access charge system, the Commission must ensure that its definition of the rural exemption is reflective of cost-causation and cost-recovery principles. CTSI has demonstrated how its definition reflects the way in which CLECs operating in rural and high cost areas incur higher costs, and provides a proper demarcation of the eligibility for recovering such costs. The Commission should adopt the definition as proposed by CTSI and allow for those CLECs providing access service to customers outside the top 50 metropolitan statistical areas the ability to recover their higher costs.

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

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
	)	
Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers	)	CCB/CPD File No. 98-63

**REPLY COMMENTS OF  
CTSI, INC.**

CTSI, Inc. ("CTSI") submits these reply comments in response to the Commission's request in the Public Notice dated December 7, 2000.

**I. THE NEED FOR A RURAL EXEMPTION**

As with their push for "reform" of CLEC access charges, the major IXCs are a lone voice on the issue of a rural exemption to any benchmark the Commission may implement for CLEC access charges. While many of the commenters echoed the conclusion that Congress and this Commission have already reached, *i.e.*, that carriers providing service in rural areas face higher costs,<sup>1</sup> the major IXCs argue that this reality should not be reflected in any benchmark established for CLEC access charge rates. Their arguments against the rural exemption differ, and will be addressed specifically below, but they all suffer from the same displacement from the

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<sup>1</sup> See CC Docket No. 96-262, Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies at p. 2 (January 10, 2001)("OPASTCO Comments"); CC Docket No. 96-262, Additional Comments of the Rural Independent Competitive Alliance at p. 5 (January 11, 2001)("RICA Comments").

realities of the rural market and the costs that carriers face in providing service to such markets. Rural CLECs have been making tremendous strides in bringing competitive telecommunications services to underserved markets.<sup>2</sup> Such a development should be encouraged, but denying CLECs their costs of providing service in these areas will imperil the development of competition in these areas.

For instance, CTSI noted in its *Initial Comments*,<sup>3</sup> that CLECs operating outside of major metropolitan areas frequently compete against carriers charging unitary switched access rates based on the average cost of providing service in both urban and rural areas. Thus, these carriers operating only in smaller markets are unable to subsidize the costs incurred in providing switched access services in small markets with revenues derived from large urban areas. For this reason, the averaged rates of an ILEC in whose territory a CLEC competes may not validly be applied to govern the rates of a CLEC that does not also average rates to the same extent as the ILEC.<sup>4</sup>

Sprint argues that it fails to “see any substance to this argument.”<sup>5</sup> Sprint argues that no one forces CLECs to enter such markets, and that “if a CLEC cannot expect to attain a cost structure that offsets the scale and scope economies of its principal competitor, and is unwilling to absorb start-up losses until it attains such a cost structure, it should not enter the market.”<sup>6</sup> Sprint fails to see the substance of the argument because it misconstrues the essence of the argument. CLECs serving rural and high cost areas are not seeking preferential treatment in this market. CLECs are merely seeking to be treated equally under the regulatory regime in regard to

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<sup>2</sup> *RICA Comments* at p. 1.

<sup>3</sup> CC Docket Nos. 96-262, 94-1, and CCB/CPD File No. 98-63, Comments of CTSI, Inc. and Madison River Communications (January 11, 2001)(“*Initial Comments*”).

<sup>4</sup> *Initial Comments* at p. 11.

<sup>5</sup> CC Docket No. 96-262, Comments of Sprint Corporation at p. 3 (January 11, 2001)(“*Sprint Comments*”).

<sup>6</sup> *Id.* at p. 3.

their access charges. For instance, the large ILEC providing service in this market is allowed to offset the higher cost of providing access service in high-cost areas through averaged access rates.<sup>7</sup> Thus, the additional access revenue a large ILEC generates in urban areas essentially finances its provision of service in rural areas. A small ILEC operating in the same area would also have cost recovery advantages because not only would it partake of the higher NECA access rates, it would have universal service subsidies to tap into. The average ILEC participating in NECA's tariffs receives \$5.57 per month per access line in explicit universal service subsidies to compensate it for higher loop costs.<sup>8</sup> The Rural Independent Competitive Alliance ("RICA") conducted a survey of its rural CLEC members and found that only 29% of its members receive USF subsidies so rural CLECs are clearly much more dependent on access charges to recover the costs of their facilities.<sup>9</sup>

Sprint's position would create the anomalous situation that both the large ILEC and the small ILEC would enjoy effective "subsidies" in the provision of access service in these rural markets, while the CLEC would not. Such a situation would make it virtually impossible for the CLECs to enter such markets, much less effectively compete in them. Thus, it is not a question of a CLEC requesting preferential treatment, the CLEC is merely seeking to be treated on a level playing field with other carriers.

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<sup>7</sup> *In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers, Petition for U.S. West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA*, CC Docket Nos. 96-262, 94-1, CCB/CPD File No. 98-63, and CC Docket No. 98-157, Fifth Report and Order and Further Notice of Proposed Rulemaking, FCC 99-206, at ¶ 58 (August 27, 1999) ("Pricing Flexibility Order").

<sup>8</sup> CC Docket Nos. 96-262, 94-1, CCB/CPD File No. 98-63, Reply Comments of the Association for Local Telecommunications Services at p. 11 (October 29, 1999) ("ALTS Reply Comments").

<sup>9</sup> CC Docket No. 96-262, Summary of *Ex Parte Meeting of Rural Independent Competitive Alliance, Member Survey Report* at p. 9 ("RICA Report").

Sprint also makes the unsupported supposition that “it is far from clear that the statewide-averaged access charges of an ILEC would be below the efficient costs of a rural CLEC in any case.”<sup>10</sup> Sprint argues that CLECs operating in rural areas would aim their offerings at the most profitable customers having a large number of lines and large calling volumes.<sup>11</sup> Sprint’s argument ignores the findings made in the RICA survey. This survey showed that the rural CLECs surveyed serve nearly three times as many residential lines as business lines, that their service areas cover a wide range of population densities, and that they are serving markets that larger carriers still deem as undesirable.<sup>12</sup> CTSI specifically markets to, and serves, residential customers. So far from limiting themselves to the choicest customers, CLECs in rural areas are bringing a full array of services to a broad spectrum of customers. In addition, Sprint also ignores the fact that it has been demonstrated that CLEC access costs are higher than price cap ILECs, and that the situation is exacerbated in rural areas.<sup>13</sup> There is no way that the costs of CLECs providing access service in these rural areas could approximate the averaged price cap ILEC access rates, much less be lower than those rates.

WorldCom is guilty of the same fallacious reasoning. It contends that a CLEC that offers service in a rural area might or might not have higher costs than a CLEC that operates in a more urban area, so it argues that there should be no rural exemption.<sup>14</sup> WorldCom suggests that the rural CLEC may have larger end users and may also have higher switch utilization. These suppositions do not conform with the realities of the marketplace, however. CLECs operating in rural areas, where there will be an even smaller pool of customers from which the CLECs can

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<sup>10</sup> *Sprint Comments* at p. 3-4.

<sup>11</sup> *Id.*

<sup>12</sup> RICA Report at pp. 1-5.

<sup>13</sup> *Initial Comments* at pp. 6-10.

<sup>14</sup> CC Docket No. 96-262, Further Comments of WorldCom, Inc. at p. 6 (January 11, 2001)(“*WorldCom Comments*”).

draw to recover the costs of these facilities, can typically be expected to have even lower utilization rates than CLECs operating in urban areas.<sup>15</sup> CLECs operating in rural areas will likely have customers that are located at even larger distances from their switches,<sup>16</sup> and will incur higher transport costs to service these customers.

Both Sprint and WorldCom's reasoning would also counsel against allowing small ILECs operating in rural areas to charge higher access rates than larger ILECs operating in urban areas, because their "costs" could possibly be lower than their urban counterparts. WorldCom admits that it is not basing its arguments on any information as to CLEC costs generally, or on the particular costs of CLECs in rural areas, and argues that such information is not needed.<sup>17</sup> CLECs have, however, demonstrated how CLEC costs for providing access service in general are higher than ILEC costs, and this disparity is even more pronounced in rural areas.<sup>18</sup> The case has been made for the rural exemption and the IXCs have offered no evidence to support their opposition to such an exemption.

AT&T argues that a rural exemption would be "antithetical to the objectives of the Telecommunications Act of 1996 and unnecessary in light of other recent action to protect universal service in high-cost rural areas."<sup>19</sup> As has been noted in this proceeding, however, "under the non-rural universal service support mechanism, high-cost areas in most states are ineligible to receive federal universal service support."<sup>20</sup> As RICA explains:

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<sup>15</sup> For instance, "because Rural Carriers, on average, have substantially fewer lines per switch than non-RTC, they cannot benefit from economies of density as well as their large counterparts." Rural Task Force, *White Paper 2: The Rural Difference* at p. 44 (January 2000)("White Paper 2").

<sup>16</sup> Rural carriers generally utilize longer loops and have higher operating expenses per customer. *White Paper 2* at p. 43.

<sup>17</sup> *WorldCom Comments* at p. 7.

<sup>18</sup> *Initial Comments* at pp. 6-10.

<sup>19</sup> CC Docket No. 96-262, AT&T Additional Comments at p. 12 (January 11, 2001)("AT&T Comments").

<sup>20</sup> *OPASTCO Comments* at p. 7.

Most RICA member rural CLECs are competing in areas served by non-rural ILECs. Universal service support for any particular line served by the CLEC is, by operation of Section 54.307, equal to the support received for that line by the ILEC. Although the area served by the CLEC may actually be a high cost to serve area, the non-rural ILEC may receive no support for the lines because the state average cost is low, or because the cascade process allocated its support to higher cost exchanges. Because the ETC designation process involves expense and delay, rural CLECs will generally not request designation if there is no support available.<sup>21</sup>

This observation is corroborated by OPASTCO which notes:

Under the non-rural universal service support mechanism, the forward-looking costs of providing supported services for non-rural carriers in each state are averaged and compared to a national cost benchmark. If the non-rural companies' statewide average cost of providing the supported services is lower than the national cost benchmark, then (absent any interim hold-harmless support) none of the non-rural study areas in that state receive any support, even the high cost areas that may exceed the national cost benchmark. For this reason, some CLECs that are serving rural and high-cost service areas may choose not to pursue eligible telecommunications carrier status because they recognize that no support is available in the non-rural company study areas in the state they are providing service. Therefore, using the receipt of universal service support as a basis or prerequisite for qualifying for a higher rural benchmark rate would exclude many CLECs providing service in rural and high-cost markets and should not be adopted.<sup>22</sup>

The universal service mechanism established by the *CALLS Order* is also irrelevant to the issue at hand. That mechanism sought to replace the implicit subsidies for non-traffic sensitive local loop and port costs that had been provided through traffic-sensitive per minute charges such as the PICC.<sup>23</sup> A significant portion of the CLEC costs in providing access service are traffic-sensitive costs, such as transport costs as opposed to loop costs.<sup>24</sup> These costs would not be

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<sup>21</sup> *RICA Comments* at p. 12.

<sup>22</sup> *OPASTCO Comments* at p. 8.

<sup>23</sup> *Access Charge Reform*, CC Docket Nos. 96-262, 94-1, 99-249, and 96-45, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, FCC 00-193, at ¶ 189 (May 31, 2000) ("*CALLS Order*").

<sup>24</sup> CC Docket Nos. 96-262, 94-1, CCB/CPD File No. 98-63, Reply Comments of the Association for Local Telecommunications Services, Attachment A, Integrated Communications Corporation, *Interstate Switched Access Charges, A National Survey: A Public Policy Analysis of Interstate Switched Access Charges, Including a Survey of 1,435 Incumbent Local Exchange Carrier Tariffed Rates* at p. 10 ("*ICC Report*") (October 29, 1999).

covered by universal service subsidies, but are rather properly recovered through switched access charges. Thus, the CALLS universal support mechanism would not provide adequate support to CLECs.

Accordingly, the record in this proceeding has demonstrated that the Commission should establish a rural exemption to any benchmark applied to CLEC access charges.

## II. THE DEFINITION OF THE RURAL EXEMPTION

Most of the comments in regard to how a rural exemption should be defined focus on the definitions proffered by Sprint and RICA. OPASTCO does offer its own definition, but it is basically RICA's definition with the threshold being areas/towns with a population of 40,000 or fewer as opposed to 20,000 or fewer.<sup>25</sup> While Sprint maintains it fails to see a basis for a rural exemption it does adhere to the "limited exception" it proffered earlier in the proceeding.<sup>26</sup>

CTSI maintains that the definition it offered in its *Initial Comments*, *i.e.*, that the exemption should apply to any access service provided to a subscriber located outside the top 50 MSAs. This definition is appropriate because of its simplicity and ease of application, and because it is most reflective of the factors contributing to development of access charges of CLECs.<sup>27</sup> This Commission has emphasized its goal of making cost recovery for access service reflective of cost causation principles.<sup>28</sup> CTSI demonstrated how its definition is most in tune with how CLECs incur higher costs for providing access service in rural and other high cost areas.<sup>29</sup>

The problem with the RICA/OPASTCO approach is that it is more rooted in the traditional conception of a network architecture, *i.e.*, that customers in towns within urban areas

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<sup>25</sup> *OPASTCO Comments* at p. 5-6.

<sup>26</sup> *Sprint Comments* at p. 4-5.

<sup>27</sup> *Initial Comments* at pp. 11-13.

or towns of 20,000 or more inhabitants would be close to a LEC's serving wire center. CTSI noted how this may be the case for ILECs or independent telephone companies, but not for CLEC networks.<sup>30</sup> RICA and OPASTCO provide no justification for how they determined the respective population densities they chose. For instance, there may be two towns located equidistant from a CLEC switch with the same amount of CLEC customers, but one town may come within the definition merely because its population is 20,000 as opposed to 25,000. RICA and OPASTCO fail to demonstrate how their definition is reflective of cost-causation principles.

RICA argues that at populations below 20,000 there is a lack of "critical mass" and fewer low cost/high volume customers are to be expected.<sup>31</sup> RICA does not explain, however, what this nebulous "critical mass" is nor why there are fewer low cost customers in such towns. RICA's real motivation seems to be revealed when it notes that "it is also a measurement of the areas that are least attractive to the majority of the CLEC industry that is not affiliated with rural ILECs."<sup>32</sup> No justification is given, however, for why an affiliation with a rural ILEC should be a prerequisite for the exemption, and no such justification can be given that would be true to the principles of cost recovery that govern access charge regulation.

Sprint applies a metropolitan statistical area approach ("MSA"), but its exceptions virtually swallow the exemption. It precludes use of the exemption by any CLEC that operates within a MSA, but offers no reason why such CLECs should be denied recovery of the higher costs of providing access service in rural areas. For instance, CLECs like CTSI that primarily serve smaller markets would be unable to qualify for the exemption if they also provided service within a MSA. This would occur despite the higher costs they face for providing access service

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<sup>28</sup> *CALLS Order* at ¶ 12.

<sup>29</sup> *Initial Comments* at pp. 11-13.

<sup>30</sup> *Initial Comments* at p. 14.

in such smaller markets and their inability to offset these costs through providing service in urban areas.

Sprint would also set the rural exemption rate as the average NECA rate. It has been demonstrated, however, that the average NECA rate is more reflective of the costs of CLECs operating in urban areas.<sup>33</sup> If, the applicable point of comparison for CLECs operating in urban areas are the rates charged by the NECA companies, then those CLECs operating in rural and other high-cost areas should be able to charge rates higher than the NECA rates.

As the Commission embarks on its mission of making the access charge compensation system more "economically rational," it should not arbitrarily define critical concepts such a rural exemption based on the subjective musings of affected parties. Instead, the Commission should evaluate and determine which approach is most consistent with cost-causation and cost-recovery principles. CTSI posits that its definition is the one most in accord with such principles.

### III. CONCLUSION

CTSI urges the Commission to establish a rural exemption to any benchmark it may set for CLEC access charges. Failure to provide such an exemption would competitively disadvantage CLECs operating in rural areas vis-à-vis ILECs operating in such areas on a subsidized basis, and would impede introduction of competitive telecommunications services in such areas. There is ample support in the record of this proceeding for such an exemption. The Commission should also define eligibility for this exemption in a manner consistent with the

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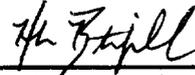
<sup>31</sup> *RICA Comments* at p. 11.

<sup>32</sup> *Id.*

<sup>33</sup> CC Docket No. 96-262, 94-1, Comments of MCI WorldCom at p. 21 (Oct. 1999).

principles it is trying to achieve in regard to charges for access service. The definition proffered by CTSI promotes such principles and should form the basis for the rural exemption.

Respectfully submitted,



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January 26, 2001

**CERTIFICATE OF SERVICE**

I, Harisha J. Bastiampillai do hereby certify that on this 26<sup>th</sup> day of January, 2001 the foregoing Reply Comments of CTSI, Inc. was delivered by hand and first class mail to the following:



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