ICORE
Consulting
Network Services
Competitive Activities
Regulatory Assistance

Jan Reimers
President

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February 23, 2001

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth St. S.W.
Washington, DC 20554

RE: In the Matter of Multi-Association Group (MAG) Plan for Regulation Of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, CC Docket No. 00-256

Dear Ms. Roman Salas:

Enclosed herewith for filing with the Commission are the original and ten copies of the Comments of ICORE, Inc., on behalf of many rural incumbent Local Exchange Carriers, in the above-captioned matter.

Please acknowledge receipt hereof by affixing a notation on the duplicate copy of this letter furnished herewith for such purpose and remitting same to bearer.

Sincerely,

No. of Copies rec'd 0+10
List A B C D E

Enclosures
cc: Sheryl Todd, Accounting Policy Division, Common Carrier Bureau (1 copy), International Transcription Service (1 diskette, 1 copy), Wanda Harris, Competitive Pricing Division (1 diskette, 1 copy)

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

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In the Matter of:	)	
	)	
Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers	)	CC Docket No.00-256
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation	)	CC Docket No. 98-77
	)	
Prescribing the Authorized Rate of Return For Interstate Services of Local Exchange Carriers	)	CC Docket No. 98-166

COMMENTS OF THE ICORE COMPANIES

The following small incumbent Local Exchange Carriers (LECs), through the consulting firm of ICORE, Inc., respectfully submit these Comments in the above-captioned proceeding. BARAGA TELEPHONE COMPANY, BARAGA, MI; BASCOM MUTUAL TELEPHONE COMPANY, BASCOM, OH; BLOOMINGDALE HOME TELEPHONE COMPANY, BLOOMINGDALE, IN; BRUCE TELEPHONE COMPANY, BRUCE, WI; CITIZENS TELEPHONE CORPORATION, WARREN, IN; CITIZENS OF KECKSBURG TELEPHONE COMPANY, MAMMOTH, PA; CLIMAX TELEPHONE COMPANY, CLIMAX, MI;

COBBOSSEECONTEE TELEPHONE & TELEGRAPH COMPANY, WEST GARDINER, ME; COON VALLEY COOPERATIVE TELEPHONE ASSN., INC., MENLO, IA; COOPERATIVE TELEPHONE COMPANY, VICTOR, IA; COOPERATIVE TELEPHONE EXCHANGE, STANHOPE, IA; DOYLESTOWN TELEPHONE COMPANY, DOYLESTOWN, OH; DUNBARTON TELEPHONE COMPANY, DUNBARTON, NH; GERVAIS TELEPHONE COMPANY, GERVAIS, OR; HOLLIS TELEPHONE COMPANY, WILTON, NH; HOME TELEPHONE COMPANY, ST. JACOBS, IL; HOME TELEPHONE COMPANY, GRAND MEADOW, MN; HOT SPRINGS TELEPHONE COMPANY, KALISPELL, MT; IRONTON TELEPHONE COMPANY, COPLAY, PA; JEFFERSON TELEPHONE COMPANY, JEFFERSON, SD; JORDAN-SOLDIER TELEPHONE COMPANY, SOLDIER, IA; LIGONIER TELEPHONE COMPANY, LIGONIER, IN; LONG LINES LTD, NORTH SIOUX CITY, SD; LYNNVILLE TELEPHONE COMPANY, LYNNVILLE, IA; NEW LISBON TELEPHONE COMPANY, NEW LISBON, IN; NORTHWEST IOWA TELEPHONE COMPANY, SERGEANT BLUFF, IA; NOVA TELEPHONE COMPANY, NOVA, OH; PALMERTON TELEPHONE COMPANY, PALMERTON, PA; PATTERSONVILLE TELEPHONE COMPANY, PATTERSONVILLE, OH; PENNSYLVANIA TELEPHONE COMPANY, JERSEY SHORE, PA; PINE TREE TELEPHONE COMPANY, GRAY, ME; PRAIRIE GROVE TELEPHONE COMPANY, PRAIRIE GROVE, AR; PYMATUNING TELEPHONE COMPANY, GREENVILLE, PA; RONAN TELEPHONE COMPANY, RONAN, MT; SEARSBORO TELEPHONE COMPANY, SEARSBORO, IA; STATE LONG DISTANCE, ELKHORN, WI; SUMMIT TELEPHONE COMPANY, INC., FAIRBANKS, AK; SYCAMORE TELEPHONE COMPANY,

SYCAMORE, OH; VAN HORNE TELEPHONE COMPANY, VAN HORNE, IA; VENUS TELEPHONE COMPANY, VENUS, PA; WEST LIBERTY TELEPHONE COMPANY, WEST LIBERTY, IA; WESTERN TELEPHONE COMPANY, FAULKTON, SD; WILTON TELEPHONE COMPANY, WILTON, NH; YEOMAN TELEPHONE COMPANY INC., YEOMAN, IN; YUKON-WALTZ TELEPHONE COMPANY, YUKON, PA.

I. INTRODUCTION

The companies represented herein display many of the diverse and unique characteristics of small, rural LECs all across America.

Some are located near a larger LEC's town or city, where there exist at least "edge out" competitive opportunities, while others are almost totally isolated.

Some serve a well educated and prosperous customer base, while others operate in less socially and economically well off areas.

Some are near a state line, with their primary community of interest in the adjoining state, while others are in their state's interior, with little interstate interest.

Some serve one or two large business customers which, if lost to a competitor, would be financially devastating, while others serve only residences and very small businesses.

Some face imminent, aggressive competition, while others have as yet to encounter any serious competitive threats.

Some operate in states where regulators have mirrored interstate access pricing and cost

recovery mechanisms, while others are subject to different forms of state access pricing and cost recovery regulations.

Some have terrain and/or climatic conditions that make construction, maintenance and repair very expensive, while others are situated in more friendly environs.

Some provide as few as 500 access lines, while others provide several thousand.

Some serve one relatively homogeneous community, while others serve several diverse exchanges.

Some operate in a relatively compact area, while others have just a few subscribers per square mile.

Some serve upscale, resorts, while others serve on depressed Indian reservations.

Some have experienced relatively healthy year-to-year growth in access lines, while others are in historically low growth, no growth, or negative growth situations.

Most small rural LECs serve sparsely populated areas where there might be a few businesses with service costs and revenues making them lucrative to cherry pick from the incumbent, but otherwise none of the large LECs or other new entrants have any economic

incentive to serve any of the remaining rural customers which are costly to serve and constitute the vast majority of the customer base. Furthermore, small LECs are community based small businesses who live in the community, hire employees in the community, and genuinely care that their friends and neighbors in the rural area receive excellent service. Any plan adopted should recognize these facts and work to preserve the viability of the small businesses in this country, and with them, the preservation of the wireline infrastructure and reasonable rates for all rural subscribers.

By contrast, large Price Cap LECs have from over fifty thousand to millions of customers; hundreds or even thousands of exchanges; and a mixture of urban, suburban and rural operations which insure that no single feature dominates their entire business landscape.

Because of these vast differences within the small LEC community, and the stark contrasts between the small LECs in general and the larger LECs, any proposed access reform plan must be flexible, adaptable to changing conditions, and capable of fostering advanced telecommunications services in every part of the United States.

This proposal creates a huge new welfare system, instead of basing rates upon legitimate and actual costs. There is no policy or legal reason whatsoever for the FCC to sacrifice compensatory access rates and the protection of universal service, on an alter of a ballooning and politically teetering federal subsidy-welfare system. Access rates should be based upon actual

costs as provided by the Act, and Constitutional requirements.

Forcing higher cost LECs to provide access below cost makes no sense, from either a business perspective, or any rational regulatory perspective. For example the FCC's own HCPM cost model produces average rural Montana costs of approx. 8 cents per minute, while this proposal would reduce access to 1.6 cents per minutes. This gross disparity starkly shows the folly and illogic of this Plan.

To a large extent, the MAG plan is the result of the disproportionate influence that larger rural LECs (in general, those with more than 25,000 access lines) exert within the Multi-Association Group of trade associations. As a result, the MAG plan, in general, is more generous to the more suburban of rural LECs (generally, those with more than 25,000 access lines) and most damaging to the most rural of rural LECs (those with less than 5,000 access lines)[1]. This characteristic of the MAG plan also raises questions as to whether the consequences would be more damaging to certain regions than others. It is at least plausible that rural areas near each coast might fare better under this plan than rural areas in the high plains and intermountain west regions of the nation. If this is true, adoption of the MAG plan would violate 47 U.S.C. 254(b)(3) and (b)(4); it is incumbent on the Commission to insure that any plan that is adopted does not include these characteristics.

[1] It is our impression that the smallest of LECs were largely unaware of the formulation of the MAG plan until after the joint agreement of the Multi-Association Group.

II. THE MAG PLAN, IF ADOPTED, MUST INCLUDE OPTIONALITY

The proposed MAG Plan includes a "two path" option. Small LECs can choose either "Path A," an "incentive" pricing and cost recovery regimen, or "Path B," a continuation of more traditional rate-of-return regulation. This optionality must be included in any final access reform plan.

Path A, with its access cost recovery based almost exclusively on a revenue-per-line (RPL) approach, may be an effective surrogate for the costs of the larger, non-Price Cap LECs. In fact, any LEC with a relatively stable cost base, and stable access line growth, may receive fair and equitable cost recovery on an RPL basis.

Many LECs, however, will not. A cost recovery methodology based solely on access lines creates real problems for companies with historically low access line growth or declining numbers of access lines; with cost volatility; or with situations where some of its existing high volume business access lines are at risk to cherry picking due to new technologies or the emergence of wireless or selective wireline competitors.

If a LEC with little or no access line growth or declining access lines, for instance, invests in modern, state-of-the-art facilities for its existing customers, RPL provides either no opportunity for that LEC to properly recover its access costs or an actual decrease in revenues in response to the investment in modern facilities. That is, its RPL-based access revenues will

remain virtually the same or even decrease after large investments in such items as soft switches and related broadband facilities, as before.

The National Exchange Carrier Association (NECA), in a June 21, 2000 paper entitled "NECA Rural Broadband Cost Study: Summary of Results," estimated the costs of upgrading rural lines to broadband. For just those rural LECs upgrading their facilities after 2002, the estimated cost of the broadband upgrades is a staggering $10.9 Billion. With small, rural LECs facing this magnitude of infrastructure investment over the next several years, this is not the time either to destroy their confidence in adequate cost recovery, or to actually mandate a plan that precludes them from recovering the costs of these critically needed investments.

A rational cost recovery plan for small LECs would allow these increased infrastructure costs to be recovered from all customers that benefit from the advanced facilities and services, including IXCs. A completely competitive marketplace would allow price increases for those customers using these improved facilities and services. The RPL scheme, however, effectively exempts the IXCs from paying their fare share of such costs, leaving the LECs' end user customers to pay the entire tab through increased local service rates.

Increasing local service rates, coupled with increasing SLCs as proposed in the MAG plan, will inevitably force the most financially stressed rural customers to discontinue service completely, and cause a much larger number of customers to remove second lines, or seek competitive alternatives. Every lost access line, under the RPL regime, results in lost revenue - -

local and access. When a line is lost to a competitor, the proportionate share of USF is also lost, under the Commission's portability rules. Losing a customer to fair and equal competition is one thing. Losing a customer because of a flawed and inflexible cost recovery system imposed under the guise of "access reform" is quite another.

A death spiral of ever increasing, non-discretionary monthly charges, leading to lost customers, leading to further increases in flat monthly charges, leading to even more lost customers . . . is a real possibility for certain small LECs under an RPL cost recovery mechanism.

Significant infrastructure investments can increase costs by orders of magnitude for the smaller LECs. RPL based cost recovery simply will not work in any such case of large cost increases, whether for equipment additions, storm damage repair or other planned - - or unforseen - - events.

If, in fact, good faith efforts to invest in the wireline infrastructure for the good of all customers ultimately result in an inability to recover the cost of those investments - - or worse yet, to large losses in customers and revenues - - the small LEC community is in serious trouble. Large IXCs, high volume toll users, and cherry picking competitors will benefit greatly. Small LECs and their high cost, low volume rural customers will suffer gravely. Certainly, the universal service provisions of the 1996 Telecommunications Act would be violated by such an outcome.

Rate-of-return regulation has always provided incentives to invest in infrastructure by fairly compensating companies for their costs of such investments. The average schedule process accomplishes this on a composite basis, through a formulaic approach; individual access and cost separations studies work on a company-specific basis. RPL-based cost recovery, on the other hand, may or may not provide adequate cost recovery, depending on each LEC's particular conditions.

The continuation of rate-of-return regulation, whereby every small LEC at least has the opportunity to recover an appropriate share of its access costs, must be included as an option in the MAG Plan.

If complete optionality for all non-Price Cap LECs is seen as too broad, the Commission should at least consider optionality (or exemption from Path A incentive regulation) for those small LECs with fewer than 50,000 access lines.

As stated above, RPL is a more reasonable cost recovery surrogate for the larger, more stable LECs, i.e, those above 50,000 lines. Mandatory incentive regulation for these companies would assure that all larger LECs would be subject to actual Price Caps, or to the Price Cap-like MAG system. This would put 97% to 98% of the industry on either the CALLS or the MAG Plan.

Most importantly, it would allow much needed optionality for the very unique and diverse 2% to 3% of the industry.

III. THE FIVE YEAR TRANSITION MUST BE INCLUDED IN THE MAG PLAN

The MAG Plan proposes a five year period during which non-Price Cap LECs may elect to move to incentive regulation (Path A) or to remain under rate-or-return regulation (Path B). This five year transition is absolutely necessary for each small LEC to make an informed decision concerning its future access pricing and cost recovery methodology. The election of Path A anytime during the prescribed five year period is permanent. The continuation of Path B beyond five years necessitates a waiver to subsequently move to Path A. Small LECs desperately need to make the right decision the first time. Five years gives them a chance to do so.

The five year MAG decision period will in all likelihood encompass the dawn of the broadband revolution, the advent of full blown Internet telephony, and the incursion of wireless and wireline competition into even the most rural areas of our nation. These forces in and of themselves will have consequences that dwarf anything that has happened in our industry since Bell called for Watson. With a brand new access pricing and cost recovery mechanism becoming intertwined with these monumental events, small LECs will need more than just a little time to determine how all of the various pieces fit together.

If, for instance, a small LEC has a schedule for broadband deployment, it must estimate its RPL versus traditional cost recovery levels over the life of that schedule. As shown above, it is absolutely critical that small LECs be able to recover their very substantial infrastructure investments, if advanced services generally available in urban and suburban America are to be

made available to all in every corner of rural America, as is required by the '96 Act.

Since access lines are the principal driver of RPL-based cost recovery, any small LEC considering incentive regulation must know with great certainty its present and future access line activity. Will historic growth rates continue? Are wireless or wireline competitors already making inroads, or about to enter the LEC's market? Will broadband reduce access line counts, by reducing or eliminating the need for additional lines?

Current and future trends in access minutes, too, must be carefully evaluated before a LEC moves to a permanent system of cost recovery which totally ignores those minutes. Access minutes have long represented a major source of access revenue (through "Traffic Sensitive" revenues/settlements) for every small LEC. Those with higher than average interstate minutes, or with minutes growing faster than the "normal" LEC (if there is such a thing), are particularly vulnerable to a plan which transfers the benefits associated with handling interstate minutes completely to the IXCs.

Small LECs have, and will continue, to provide costly loop and switching facilities to originate and terminate long distance traffic for the IXCs and their customers. For some LECs, a cost recovery approach based almost exclusively on access lines may adequately cover all of their costs, including these traditionally traffic sensitive functions. For others, however, where access lines are growing slowly (or not at all, or declining) compared to more robust growth in interstate minutes, proper cost recovery is at serious risk.

Assuming that competition and IP telephony will continue to expand, a five year transition is not an unreasonable amount of time for small LECs to assess the appropriateness of adopting a brand new, permanent access cost recovery regime.

IV. SLCs MUST BE FLEXIBLE FOR THOSE LECs CHOOSING TO REMAIN UNDER TRADITIONAL REGULATION

The MAG Plan proposes increasing interstate SLCs, over a transition period, to $6.50 per month for residential customers, and $9.20 per month for multi-line businesses. These increases - - which are effectively local rate increases in that they are non-discretionary - - would apply to all LECs, whether operating under incentive or rate-of-return regulation.

Bluntly put, there are areas of this country that do not need excessively high interstate SLCs and their concomitant excessively low interstate per minute access rates. While IXCs and their large, high volume toll users clamor for increasingly minuscule (and non-compensatory) access rates, they are not the sole entities covered by public interest standards. Rural, less affluent, low volume toll users make up a large portion of the smaller LECs' customer bases. Public interest considerations should apply equally to them.

For wealthier, high volume residential toll users, as well as large businesses, higher SLCs and lower access rates might make already low toll rates even lower. However, it is very likely wishful thinking to assume that any change in rural access charges, which represent less than 5% of the massive telecommunications industry, will cause unregulated national carriers as large as

AT&T or MCI to change their retail pricing policies whatsoever. The most likely outcome is increased local rural telephone rates with no corresponding decrease in toll costs. For poorer, lower volume toll users, and smaller businesses, this rate shift simply raises the overall price of telecommunications services, in some cases to burdensome levels, particularly in the likely event that unregulated toll prices are not reduced. A $6.50 monthly SLC, for instance, effectively imposes a 65¢ per minute toll rate, in addition to the IXC's rate, on the unfortunate end user that generates only 10 interstate long distance minutes per month.

SLCs of the magnitude proposed by MAG will create real hardships for many rural Americans. As pointed out above, increasing numbers of the neediest users will be forced to discontinue service, and many others may be artificially persuaded to consider competitive solutions. Abandonment of service benefits no one; driving customers to competitors by saddling incumbent LECs with rigid, inflexible pricing regulations which give customers little choice, is not what fair competition is all about.

Many state regulators, through negotiation and compromise, have struck equitable balances between flat SLCs and per minute access rates, based on the specific circumstances of the various LECs within their jurisdictions. A general, across-the-board federal plan that mandates huge SLC increases, along with huge reductions in per minute access rates, will undoubtedly put pressure on these various state access arrangements, which work so well at the local level. In the case of Ronan Telephone Company in Montana, if Intrastate access charges were lowered to the proposed MAG plan rate of 1.6 cents per minute, local subscribers would be

faced with local rate increases of approximately $19.50 per month in addition to the proposed MAG plan increase in the Interstate Subscriber Line Charge of $3.00 per month. In this case, the ultimate effect of MAG coupled with the likely intrastate mirroring effects could raise non-discretionary local rates from $11.25 per month to $33.75 per month[2], or a 200% increase in local telephone rates. This would be an outrageous rate shock which is totally inconsistent with the goals of universal service including the protection of affordable basic telephone service; and the Federal Communications Commission should not close it's eyes to the dramatic impacts that it's decisions can have on state and local rates.

Hard questions must be asked: Why impose unnecessarily high SLCs, knowing full well that they will cause tremendous harm? Why then attempt to control the severe damage with higher Lifeline support payments, knowing that such "welfare" schemes will in all probability become less and less politically palatable in the future, especially when access charges much higher than 1.6 cents per minute are fully supportable as actual and legitimate costs for most small rural LECs.

Put another way: Why can't a new access reform plan contain enough flexibility to accommodate the uniqueness and diversity of rural America?

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[2] This impact would occur in an Indian reservation community with a tiny local calling area of only 4,000 access lines where the average annual per capita income is less than $17,000 per year.

V. ALL USF COMPONENTS MUST APPLY EQUALLY TO ALL LECs

The MAG Plan proposes, for LECs choosing to join NECA's incentive pool, to reduce access rates to about 1.6¢ per minute over a transition period. Since this extremely low rate will not compensate many pool members for their actual costs of providing interstate access facilities, the plan includes a Rate Averaging Support (RAS) mechanism to be paid to all pooling LECs experiencing revenue shortfalls through application of the 1.6¢ rate. The RAS will be treated as a USF component. What is the crime in IXCs paying an access rate that compensates for actual costs?

The MAG plan does not include RAS for those LECs choosing incentive regulation, but filing their own tariffs, or for those remaining on rate-of-return regulation. If RAS is truly a USF element, however, it is difficult to understand how it can be made available based solely on a LEC's pooling election, rather than its costs.

RAS, as well as all other LEC-specific USF support - - high cost loop, Local Switching Support and Long Term Support - - must be made available equally to all small, rural LECs. Any company filing it own tariff, for instance, whether under incentive or rate-of-return regulation, should be afforded the opportunity to participate in the RAS. That is, these LECs should be allowed - - but not forced - - to increase their SLCs upward, and their access rates downward, to the MAG-prescribed levels. Any revenue shortfalls should be covered by RAS, just as such shortfalls are to be offset for those companies choosing membership in NECA's

incentive pool.

There is no good statutory or legal reason to limit RAS, or any other USF component, to certain pool participants. Any rural access reform policy that is not "pooling neutral" is terrible public policy that caters to the NECA status quo. Whether NECA endures or fails should be a matter decided in the marketplace and not a result of tilted FCC rulemaking. The ICORE companies implore the Commission to make all such support available to all LECs on a non-discriminatory basis.

VI. CONCLUSION

Because of the uniqueness and diversity of the smaller LECs - - LECs that are so different from one another in particular and from the larger Price Cap LECs in general - - no single access reform regimen can work effectively across the industry. The MAG Plan's Path A - - with its rigid access and end-user pricing, and its equally inflexible cost recovery scheme - - may serve well the relatively larger LECs, and even some of the smaller ones. As pointed out above, it will be a complete disaster for others.

Small, independent LECs have traditionally several rural, agricultural, small town America, areas the Bell System in particular considered unprofitable and insignificant. Even today, many large price cap LECs are rapidly discarding their rural exchanges, selling them off in order to pursue other, more lucrative, markets and opportunities. Many of these large LEC-

owned rural exchanges, once acquired by a smaller LEC, are found to have equipment, systems, and procedures that are old, inferior and in need of immediate repair or replacement.

The small LECs, conversely, have always provided high quality, affordable telecommunications services to their rural customers, and they continue to do so today - - both to their existing customers, and those acquired from larger LECs. Any access pricing and cost recovery plan which causes serious financial harm to these dedicated and long-serving rural LECs is certainly not in the nation's best interest.

If there is a "digital divide" between rural and urban America - - and the ICORE companies are not convinced there is - - a single monolithic pricing and cost recovery regime is not the way to close it. Such a program threatens, in many cases, the very existence of the only companies truly interested in, and capable of, bringing advanced services to all rural Americans.

The MAG plan must therefore include complete optionality, or at least exemptions from incentive regulation for those LECs with fewer than 50,000 access lines; it must allow for flexibility in SLCs and access rates for LECs remaining under traditional regulation; it must include an adequate transition period for small LECs to decide their fate; and it must apply RAS and other USF support even-handedly to all small, rural LECs.

Only under these conditions can the Commission assure the continuation and growth of advanced telecommunications services in all of rural America.

Respectfully submitted,
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