

HALPRIN, TEMPLE, GOODMAN & MAHER

555 12TH STREET, N.W., SUITE 950 NORTH  
WASHINGTON, D.C. 20004  
(202) 371-9100 TELEFAX (202) 371-1497  
HTTP://WWW.HTGM.COM



ALBERT HALPRIN  
RILEY K. TEMPLE  
STEPHEN L. GOODMAN  
WILLIAM F. MAHER, JR.

JOEL BERNSTEIN  
\_\_\_\_\_  
JANICE OBUCHOWSKI  
OF COUNSEL

September 21, 2001

RECEIVED

SEP 21 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals  
Washington, D.C. 20554

Re: Ex Parte Presentation – CC Docket Nos. 00-256, 96-45, 98-77/98-166,  
*Multi-Association Group (MAG) Plan for Regulation of Interstate Services  
of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange  
Carriers*

Dear Ms. Roman Salas:

On September 20, 2001, representatives of the Multi-Association Group (the "Group") met with Kyle Dixon and Joan McClenney of Chairman Powell's office. David Cohen, Marie Guillory, Margot Smiley Humphrey, John Rose, and the undersigned attended on behalf of the Group. Though its representatives, the Group urged that the Commission issue a comprehensive further notice of proposed rulemaking in the above-captioned proceeding, rather than proceed to a final order in the near future.

The Group representatives expressed concern that without a comprehensive further notice of proposed rulemaking on the Commission's tentative conclusions in this proceeding, the Commission could take actions that would decrease non-price cap incumbent LECs' incentives to invest in rural infrastructure and harm their customers. The Group noted that this is especially significant because many of the non-price cap incumbent LECs are small businesses. The attached outline was presented at the meeting and summarizes specific points of the presentation.

Representatives of the Group also noted that increasing designations of competitive eligible telecommunications carriers ("CETCs") and their expanding use of universal service support call for the Commission to reassess its implementation of support portability. This is necessary to ensure that CETCs use such support, which is funded by the nation's consumers, "only for the provision, maintenance and upgrading of facilities and services for which the support is intended" consistent with section 254(e) of the Communications Act ("the Act"). Such support should not be used to provide

Magalie Roman Salas  
September 21, 2001  
Page 2

subsidies for competitive services contrary to section 254(k) of the Act nor otherwise create incentives for uneconomic market entry.

Filings of the Group and others already part of the record in this proceeding also were discussed.

Eight copies of this letter and the attachment are enclosed for the use of the Secretary and a copy of this letter and attachment will be provided to the Commission attendees.

If you have any questions on this matter, do not hesitate to call me.

Very truly yours,



William F. Maher, Jr.

Attachment  
Enclosures  
cc: Mr. Dixon  
Ms. McClenney

**Presentation of Multi-Association Group**  
September 20, 2001

**A COMPREHENSIVE FURTHER NPRM IS ESSENTIAL  
IN THE MAG PROCEEDING ON ACCESS CHARGES AND  
RELATED ISSUES**

CC Docket Nos. 00-256, 96-45, 98-77, 98-166

- A. Summary: Through the MAG associations, non-price cap incumbent LECs proposed comprehensive regulatory reform in October 2000. Intervening court decisions and economic developments require careful further consideration before making changes to the access structure for non-price cap LECs.
  
- B. Major intervening legal events should be addressed systematically.
  - 1. *COMSAT v. FCC* (5<sup>th</sup> Circuit) – universal service costs cannot be recovered through access charges
  - 2. *Qwest v. FCC* (10<sup>th</sup> Circuit) – remand of key aspects of the universal service program for non-rural incumbent LECs
  - 3. *Texas Office of Public Utility Counsel v. FCC* (5<sup>th</sup> Circuit) – further justification needed for the size of the CALLS interstate access universal service support mechanism and the CALLS X-factor
  
- C. Major intervening national events have increased risks for non-price cap LECs, many of which are small businesses. These LECs provide infrastructure that is essential to the smooth running of the economy and to public safety.
  - 1. Economy has slowed
  - 2. Uncertainty has increased
  
- D. Conclusion: The Commission should comprehensively examine the numerous issues pending in this proceeding in light of the changed circumstances since the MAG plan was filed. Unresolved issues of particular importance to non-price cap LECs are listed in the attachment. The MAG associations will work to resolve these issues as quickly as possible after issuance of a further notice.

**Presentation of Multi-Association Group**  
**September 20, 2001**

**ATTACHMENT**

Remaining major issues are vital to the stability and investment incentives of non-price cap incumbent LECs and to their customers.

1. Even if the FCC adopts an additional universal service support mechanism, it is irrational for common line cost recovery through access charges to be limited to SLCs for these LECs. Other forms of cost recovery should be adopted.
2. Universal service support mechanisms should not be capped and competitive neutrality of these mechanisms must be addressed to ensure compliance with sections 254(e) and (k).
3. Section 254(g) should be enforced effectively.
4. The authorized rate of return should be maintained.
5. The stability and risk sharing benefits of pooling must be preserved; the basic role of Long Term Support should not be altered.
6. The Commission's rules governing acquisitions and mergers and all-or-nothing rules should be modified as proposed in the MAG plan.
7. Multiline business SLC/Centrex increases should not be flash-cut.
8. Revenue requirements recovered by the Transport Interconnection Charge should not be moved to the common line revenue requirement.
9. Per-minute access rates should not be held artificially low to benefit IXCs.
10. Incentive regulation and regulation that accommodates individual study area conditions are important to comprehensive regulatory reform.