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September 25, 2001

RECEIVED

SEP 25 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 24, 2001, representatives of the Multi-Association Group (the "Group") met with Commissioner Kevin Martin and Samuel Feder of Commissioner Martin's office to discuss the above-captioned proceeding. Marie Guillory, Margot Humphrey, John Rose, David Cohen, Robert Debroux, 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. Such actions could also harm customers of these LECs. The Group representatives noted that the Commission has already taken measures[1] to comply with the Fifth Circuit's recent decision in *COMSAT Corp. v. FCC*,[2] and that a comprehensive notice of proposed rulemaking would permit the Commission and interested parties to address that decision and two other recent appellate decisions systematically.

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1 *See Waiver of Sections 69.3(a) and 69.4(d) of the Commission's Rules*, CCB/CPD 01-15, Order, DA 01-1429 (Com. Car. Bur. rel. Jun. 14, 2001).

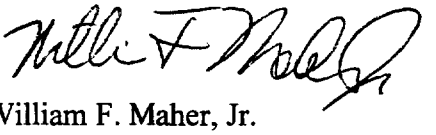
2 250 F.3d 931 (5th Cir. 2001).

The attached outline was presented at the meeting and summarizes specific points of the presentation. Also discussed were filings of the Group and other parties already in the record in this proceeding.

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 each of 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: Commission attendees listed above

Presentation of Multi-Association Group
September 24, 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* (5th Circuit) – universal service costs cannot be recovered through access charges
2. *Qwest v. FCC* (10th Circuit) – remand of key aspects of the universal service program for non-rural incumbent LECs
3. *Texas Office of Public Utility Counsel v. FCC* (5th 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
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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.