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October 4, 2001

EX PARTE – Via Electronic Filing

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

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

Dear Ms. Salas:

With respect to the above captioned proceedings, on September 3, 2001, I (on behalf of AT&T, GCI and Western Wireless) spoke separately with Mr. Kyle Dixon, Legal Advisor to the Chairman, Mr. Matthew Brill, Legal Advisor to Commissioner Abernathy, Mr. Paul Jackson, Deputy Director, Office of Legislative and Intergovernmental Affairs, and Ms. Carol Mattey, Deputy Chief, Common Carrier Bureau. In these contacts, I made some or all of the following points:

- There is no reason for further comment with respect to issues other than incentive regulation and, in the event that the Commission does not now adopt rules providing for universal service support for traffic sensitive costs, such additional universal service support for traffic sensitive costs.
- The record is complete with respect to the need for SLC cap increases, implementation of "catch-up" access reforms, and creation of a USF to replace the carrier common line charges that would exist when SLCs reach their caps. With respect to these issues, further comment would only serve to create delay for delay's sake. The Commission would be in no better a position to decide these issues after further comment than it is in today.
- At least some non-price cap companies fundamentally are opposing two basic tenets of the 1996 Act – that all telecommunications should be open to competition and that universal service should be preserved through explicit universal service subsidies made available to any competing universal service provider (i.e., an eligible telecommunications carrier) rather than through hidden and unsustainable implicit subsidies. Congress already made these fundamental decisions.

- No party – including NECA – has placed on the record in writing any specific problems that the Rural Consumer Choice Plan would create with respect to pooling. It is true that replacing the carrier common line charge with an explicit universal service support shifts to the USF the job of spreading costs from higher cost companies to lower cost companies and their customers, rather than relying on the NECA common line pool and geographic averaging of toll rates to implement these universal service objectives. That shift, however, is required by both law and sound policy. As a policy matter, as the Congress and the Commission recognized, the universal service fund provides a much more stable base for sustaining universal service because it shares the burden of supporting universal service among all telecommunications carriers and their customers, not just the long distance carriers and their customers.

In addition, Mr. Joel Lubin (of AT&T) and I met with Dr. David Sappington, FCC Chief Economist, and Dr. Donald Stockdale, Senior Economist, Office of Plans and Policy. Our conversation is summarized in the attached written presentation, a copy of which was provided to Drs. Sappington and Stockdale.

In accordance with FCC rules, a copy of this letter and its attachment is being filed electronically in each of above-captioned dockets.

Sincerely,

John T. Nakahata

Attachment
c: Kyle Dixon, Legal Advisor to the Chairman
Matthew Brill, Legal Advisor to Commissioner Abernathy
Paul Jackson, Deputy Director, Office of Legislative and Intergovernmental Affairs
Carol Mattey, Deputy Chief, Common Carrier Bureau
Dr. David Sappington, FCC Chief Economist
Dr. Donald Stockdale, Senior Economist, Office of Plans and Policy

Access Rates, Rate Averaging and LD Competition

- Rate averaging without explicit support for high traffic sensitive (“TS”) costs places carriers serving both low cost and high cost areas at a significant, artificial cost disadvantage compared to carriers serving only low cost areas.
- Rate averaging without explicit support for high TS costs forecloses LD entry in high cost areas by both regional and national carriers.
- Rate averaging without explicit support will put market pressure on carriers to reduce service in high cost areas, or for the Commission to forbear.

Access Rates, Rate Averaging and LD Competition – Status Quo

Hypothetical Company	Price Cap - Price Cap MOU	Price Cap - NECA MOU	NECA - NECA MOU	Avg Access per Conv. Minute	% of Nationwide Carrier's Access Payments	% of Retail ($.07)
A (Nationwide carrier -- originates/terminates everywhere)	800	100	100	$0.023130	100.00%	33.04%
B (Regional carrier -- originates in non-price cap/terminates everywhere)		50	10	$0.055283	239.01%	78.98%
B' (Regional carrier -- originates in non-price cap/terminates everywhere		20	40	$0.073833	319.21%	105.48%
C (Regional carrier -- originates price cap/terminates everywhere)	400	25		$0.014182	61.32%	20.26%
Access/Conv. Minute	$0.012	$0.049	$0.086			
Access/Access Minute	$0.006	$.006 PC & $.0431 NECA	$0.043			

- Carrier A has substantial market incentives to reduce or eliminate service in high cost areas.
- Carriers B & B’ face severe margin squeeze.
- Carrier C gets a substantial, artificial cost advantage.

Access Rates, Rate Averaging and LD Competition – Common Line & "Catch Up" Reforms Only

Hypothetical Company	Price Cap - Price Cap MOU	Price Cap - NECA MOU	NECA - NECA MOU	Avg Access per Conv. Minute	% of Nationwide Carrier's Access Payments	% of Retail ($.07)
A (Nationwide carrier -- originates/terminates everywhere)	800	100	100	$0.015600	100.00%	22.29%
B (Regional carrier -- originates in non-price cap/terminates everywhere)		50	10	$0.026000	166.67%	37.14%
B' (Regional carrier -- originates in non-price cap/terminates everywhere		20	40	$0.032000	205.13%	45.71%
C (Regional carrier -- originates price cap/terminates everywhere)	400	25		$0.012706	81.45%	18.15%
Access/Conv. Minute	$0.012	$0.024	$0.036			
Access/Access Minute	$0.006	$.006 PC & $.018 NECA	$0.018			

- Carrier A has substantial market incentives to reduce or eliminate service in high cost areas.
- Carriers B & B' still face severe margin squeeze.
- Carrier C retains a substantial artificial cost advantage.

Access Rates, Rate Averaging and LD Competition – Adding TS Subsidy (RCC)

Hypothetical Company	Price Cap - Price Cap MOU	Price Cap - NECA MOU	NECA - NECA MOU	Avg Access per Conv. Minute	% of Nationwide Carrier's Access Payments	% of Retail ($.07)
A (Nationwide carrier -- originates/terminates everywhere)	800	100	100	$0.013050	100.00%	18.64%
B (Regional carrier -- originates in non-price cap/terminates everywhere)		50	10	$0.016083	123.24%	22.98%
B' (Regional carrier -- originates in non-price cap/terminates everywhere		20	40	$0.017833	136.65%	25.48%
C (Regional carrier -- originates price cap/terminates everywhere)	400	25		$0.012206	93.53%	17.44%
Access/Conv. Minute	$0.012	$0.016	$0.019			
Access/Access Minute	$0.006	$.006 PC & $.0095 NECA	$0.010			

- Carrier A's cost penalty for serving high cost areas is greatly reduced.
- Carriers B & B' margin squeeze is greatly reduced.
- Carrier C's artificial cost advantage is greatly reduced.

Access Rates, Rate Averaging and LD Competition – MAG Track A

Hypothetical Company	Price Cap - Price Cap MOU	Price Cap - NECA MOU	NECA - NECA MOU	Avg Access per Conv. Minute	% of Nationwide Carrier's Access Payments	% of Retail ($.07)
A (Nationwide carrier -- originates/terminates everywhere)	800	100	100	$0.015000	100.00%	21.43%
B (Regional carrier -- originates in non-price cap/terminates everywhere)		50	10	$0.023667	157.78%	33.81%
B' (Regional carrier -- originates in non-price cap/terminates everywhere		20	40	$0.028667	191.11%	40.95%
C (Regional carrier -- originates price cap/terminates everywhere)	400	25		$0.012588	83.92%	17.98%
Access/Conv. Minute	$0.012	$0.022	$0.032			
Access/Access Minute	$0.006	$.006 PC & $.0160 NECA	$0.016			

- MAG Track A recognized TS subsidies are necessary to continue toll averaging.
- MAG Track A is insufficient to reduce Carrier A's cost penalty, Carriers B & B' margin squeeze or Carrier C's artificial cost advantage.