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October 4, 2001

**RECEIVED**

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

OCT - 4 2001

**EX PARTE OR LATE FILED**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: *In the Matter of Access Charge Reform: Seventh Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-262* /  
*AT&T and Sprint Petitions For Declaratory Ruling Regarding the Legality of Terminating or Declining Access Services Ordered or Constructively Ordered And The Requirements for Effecting Such Termination. CCB/CPD No. 01-02*  
Ex Parte Meeting

Dear Ms. Salas:

On October 3, 2001, David Cosson and John Kuykendall of Kraskin, Lesse & Cosson, LLP, counsel to the Rural Independent Competitive Alliance ("RICA"), met with Kyle Dixon, legal advisor to Chairman Michael Powell, to discuss issues raised by RICA in its Petition for Reconsideration and/or Clarification of the Commission's Seventh Report and Order in the above-captioned proceeding ("Seventh R&O").

RICA representatives emphasized that RICA strongly supports the basic conclusions of the Seventh R&O and requests reconsideration only in certain areas to ensure that the objectives identified by Commission are actually achieved. Among the items discussed were the need to revise the eligibility criteria of the rural benchmark from Rural CLECs competing with non-rural carriers to Rural CLECs competing with price cap carriers and the need for the rural benchmark to remain equivalent to pre-MAG levels.

The discussion also included discussion of an ex parte communication filed by RICA on September 21, 2001 in which RICA urged the Commission to act promptly on the pending petitions for declaratory ruling filed by AT&T and Sprint regarding their obligations under the Communications Act with respect to customers of CLECs.

A recent copy of RICA's newsletter was also provided (see attached).

Please contact me if there are any questions regarding this matter.

Sincerely yours,

  
John Kuykendall

cc: Kyle Dixon

Attachment

No. of Copies rec'd 052  
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RICA

# Competitive Edge

A Quarterly Newsletter for Association Members



## Mission Statement

*RICA is dedicated to being the recognized voice of small rural competitive local exchange carriers (CLECs). RICA seeks to provide opportunities, education and support for these small CLECs, their communities, and their customers by promoting a fair and competitive marketplace, and by giving these CLECs the tools and information they need to be successful and to compete effectively.*

## Northwest Internet Services' High Speed Wireless Internet Solution

**How do you get high-speed Internet service to a customer who lives four or more miles from town?**

Wireless Internet. Northwest Internet Services, a subsidiary of Northwest Telephone Cooperative, began offering high-speed wireless service in June of 2000 under the brand name Excellernet (Acel-er-net).

Northwest Internet Services provides dial-up Internet service to over 8,000 customers in 60 north central and northwest Iowa communities starting in 1995. Knowing that high-speed service is the wave of the future and responding to customer requests, NIS began researching solutions. Early in 1999 they decided on the unlicensed 2.4 spread spectrum service with most equipment now being purchased from Cisco, formerly owned by Aeronet.

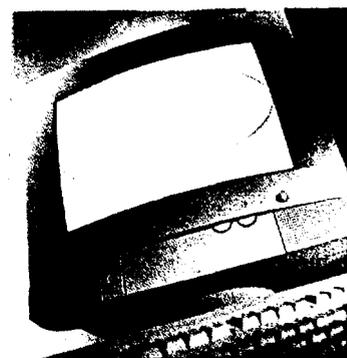
Currently, NIS has approximately 200 users and service is offered in approximately 20 communities, with plans for expansion. This product has allowed NIS to offer Internet service to new customers in new territories.

Initially, NIS planned to bounce the signal from elevator to elevator, eventually returning back to its office in Havelock, Iowa. This presented some challenges and stress on antennas. Now, the ISP still bounces some signals but most go back into the ground where fiber optic or copper cable returns the signal to the central office.

NIS has four technicians who

are responsible for the reliability and stability of the central equipment, as well as installation and maintenance of CPE (customer premise equipment). The company owns all equipment, charging the customer a one-time installation fee, plus their monthly service charge. Users can get a 128k or 256k connection. Faster service is provided on a case-by-case basis upon request. The 128k speed is only available for residential customers.

*Continued on next page.*



## Goals

RICA strives to ensure that small CLECs can exist and prosper in rural communities that normally will not be served by larger CLECs.

To ensure reaching these goals and objectives, RICA will:

1. Work with other national organizations, such as OPASTCO, NTCA and USTA, to ensure that the "unique" viewpoints of small rural CLECs are recognized.

2. Protect rural CLECs interest's before Congress, FCC and other governmental and regulatory entities.

3. Provide education and assistance to small CLECs on issues related to interconnection, regulatory and marketing.

4. Communicate the role of small CLECs in the advance of competition and technology, and in maintaining state of the art affordable service.

5. Pool resources to more effectively utilize the services of consultants and lawyers.



### FROM THE TOP

## President's Letter

In my first President's address at the 2001 Annual Meeting, I discussed the need for us to continue working together as a collective voice for rural CLECs. For a relatively young association, we are already seeing the fruits of our hard work. In May, the FCC released its long-awaited decision on CLEC access services. It was clear that RICA's advocacy was influential as the FCC cited RICA's filed comments and supported many of our positions. In July, I accompanied a team of RICA members who engaged in very productive discussions with FCC commissioners and staff. In addition, we are pleased to hear that FCC Commissioner Abernathy will be our keynote speaker at the 2002 Annual Meeting. The volume and impact of our unified voice is increasing and I thank all of you who have participated in supporting RICA's mission.

Based on our evaluations from the Annual Meeting in April (where registrations doubled from our inaugural meeting) and the positive feedback from our Regulatory Conference in June, I'm confident we're meeting those goals.

Hearty thanks to David Schmidt, Carl Turnley, and RICA Counsel Dave Cosson and John Kuykendall for taking time out of their busy schedules for our July meetings with the FCC. Also, warm thanks to Bonnie Andermatt who has served RICA professionally and effectively in her tenure as our administrative lead. Although RICA has awarded an extension to GVNW for the administrative needs of the association, the effort will now be led by Tim Raven and his staff - Stephanie Rodriguez and Anissa Kocian - out of Austin, Texas. Bonnie's other responsibilities are demanding her full attention and we wish her well.

While RICA has made great strides in advancing the cause of rural CLECs, there are still many hurdles to overcome. I am honored to serve as your President as we continue our commitment to promote the needs of rural CLECs and the communities they serve. I encourage you to stay active, reach out to your colleagues, and invite others to join or get involved in RICA. See you in Phoenix!

Sincerely,

Rick Vergin  
Chibardun  
Telephone  
Cooperative

Internet continued...

Upon receipt of a customer application, a "no charge" site survey is performed to determine if the customer can receive a clear signal. If so, installation is performed. The technology is definitely line-of-sight, meaning the customer needs to be able to see the top of the grain elevator closest to their location. NIS has some customers who are up to 10 miles from the broadcast antenna. Springtime has presented some reception problems due to foliage. The only other major weather related difficulty resulted when ice struck



the area in late winter. "For the most part, the equipment has been very stable," says Mike White, Technical Services Manager. "It is an awesome product and we're very happy with its performance."

Northwest Internet Services has also been recognized as a brand name for all high speed services including DSL, wireless and cable modem service. DSL is offered in Northwest Telephone's four local telephone exchanges and cable modem service is offered in partnership with a municipal overbuild in one community.

In addition to Internet service, Northwest provides traditional telephone, CATV, long distance, cellular, networking & computers, training, video conferencing, web design and hosting. For more information about Northwest Internet Services' Wireless Internet product, call Mike White, Technical Services Manager at 712-776-2222 or visit us on the web at [www.ncn.net](http://www.ncn.net)



## ADVOCACY

## RICA Requests FCC "Fine Tune" Its CLEC Access Charge Decision

As we reported in our last newsletter, the FCC, in its decision regarding CLEC access services, adopted a benchmark for rural CLECs that is higher than the benchmark for urban CLECs and established the obligations of IXC's to provide service to CLECs as well as pay the CLECs for access. Although the decision was for the most part favorable for RICA members, it contained certain deficiencies that need "fine tuning." These deficiencies include: (1) allowing the separate benchmark only for rural CLECs that compete with a non-rural ILEC; (2) excluding the carrier common line charge in the rural benchmark rate; (3) disqualifying CLECs for the rural benchmark if they serve any territory that exceeds the population limit; and (4) denying use of the benchmark rate when CLECs expand into new MSAs.

This was followed by meetings held between RICA representatives and FCC officials to discuss the issues raised in the petition and filing a response to companies that opposed the petition. The following provides an overview of RICA's recommendations to the FCC to address these deficiencies.

AT&T, Sprint and Worldcom opposed RICA's request to modify the rule by arguing that the Rural Benchmark was only intended for areas where the ILEC's rural

access charges are low because of study area averaging and that rural ILECs do not have the ability to subsidize rural access rates. Iowa Telecommunications Services, one of the new companies which purchased GTE exchanges, argued that its competitor rural CLECs should not be allowed to charge at the rural benchmark level, unless it is allowed to charge the same rates.

In response to these arguments, RICA noted that although rural price cap LECs are smaller than non-rural price cap LECs, almost all of the price cap rural LECs are significantly larger than the typical rate of return regulated ILEC. However, under the Commission's access charge decision, rural CLECs that compete with these larger rural price cap carriers are at a severe disadvantage because they must transition to the access rates specified under the CALLS order. Rural CLECs had no opportunity to participate in the CALLS negotiations. Further, these large

ILECs receive benefits they believed appropriate for them, but which have no relevance to rural CLECs. The revenues produced by these rates are not sufficient to support the investment by rural CLECs. Thus, the rural CLECs are not able to provide the public benefits which the Commission's access charge decision recognized.

Worldcom argued that it would be "absurd" to allow CLECs to recover loop costs from IXCs and that these costs should be recovered from end users or universal service support. In responding to Worldcom's objection, RICA argued that it is no more absurd for a rural CLEC to recover a portion of loop costs through access charges than it is for a NECA

pool member. Further, RICA noted that if a rural ILEC purchases exchanges and rebuilds them, a portion of the loop costs would be recovered from the IXCs. It is not rational to have a rule which discourages the more competitive and efficient process of overbuilding by a CLEC in favor of purchasing a lot of "goodwill" which does not benefit subscribers.

RICA requested that the Commission instead adopt RICA's proposed definition that would permit a CLEC which extends lines into a disqualifying non-rural area to only lose eligibility for the rural benchmark "to the extent" that it serves subscribers in non-rural areas.

*Continued next page...*



Advocacy continues...

A fourth deficiency addressed in RICA's petition is that the FCC's rule precludes use of either the rural or non-rural benchmarks where the end-users are located in MSAs not previously served by CLECs. RICA argued that this restriction should not be applied to the rural benchmark as there are many very sparsely populated areas which are included in an MSA and, as a matter of policy, rural CLECs should not be discouraged from expanding their public benefits into new rural areas which happen to be located in an MSA which has not previously been served.

Under the new FCC collocation rules, rural CLECs that are currently eligible for the rural benchmark will be able to amend their tariffs to reflect the higher rate if the Commission changes its rules to allow for the carrier common line charge to be included in the rural benchmark.

**All rural CLECs that are currently eligible for the rural benchmark will be able to amend their tariffs to reflect the higher rate if the Commission changes its rules to allow for the carrier common line charge to be included in the rural benchmark. Several rural CLECs that are currently not eligible for the rural benchmark would be able to amend their tariffs to reflect the higher rate if the Commission changes its rule to provide that rural CLECs that compete with price cap carriers are eligible for the rural benchmark or if the Commission changes its rule to allow for rural CLECs to only lose eligibility for the rural benchmark "to the extent" that it serves subscribers in non-rural areas.**

The Commission may take some time before it acts, however. In the meantime, RICA will keep members apprized if we hear of any possible Commission action on RICA's petition. ☎



## FCC Adopts New Collocation Rules That Appear Favorable to CLECs

The FCC has adopted new collocation requirements for large ILECs. These new requirements were in response to a March 2000 D.C. Circuit Court of Appeals ruling that sent certain aspects of the FCC's 1999 collocation rules back to the FCC for further explanation or revision. Although the FCC's new rules are fashioned to ensure the protection of ILEC's property rights, they also "balance the interests of all parties" in collocation agreements by ensuring that CLECs have interconnection to incumbent carriers' networks and nondiscriminatory access to unbundled network elements.

251(c)(6) of the Telecommunications Act, which requires ILECs to permit CLECs to collocate equipment that is "necessary for interconnection or access to unbundled network elements." According to the circuit court, the FCC's 1999 collocation rules were "impermissibly broad." In its revised rules, the Commission stated that the "necessary" standard means that CLECs can deploy equipment "if an inability to deploy that equipment would, as a practical, economic, or operational matter, preclude the requesting carrier from obtaining interconnection or access to unbundled network elements." According to the new rules, ILECs are not required to reconfigure the boundaries of their collocation space, reinforce floors to accommodate heavy equipment

or make similar changes that would place a significant demand on the ILEC's infrastructure in order to accommodate a piece of multifunction equipment. The FCC also found that switching and routing equipment "typically" meet the Commission's "necessary" standard. The inability to deploy such equipment would preclude a requesting carrier from obtaining nondiscriminatory access to the local loop, the FCC says. The only type of equipment the FCC found cannot be collocated are "traditional circuit switches, which are very large pieces of equipment compared to newer, more advanced switching and routing equipment."

In a major victory for CLECs, the Commission found that cross-connects are essential to facilities-based competition and ruled that ILECs must provide cross-connects between collocated carriers "upon reasonable request." The Commission also ruled that ILECs must make cageless collocation space available in increments small enough for CLECs to collocate a single rack of equipment. ☎

The FCC's collocation rules were developed to fulfill the mandate set forth in Section



## HIGHLIGHTS

### RICA News Bits

#### Iowa Telecommunications Files Deregulation Petition

Iowa Telecom, the ILEC, has filed with the Iowa Utilities Board a petition to deregulate all retail local exchange services in targeted communities that have CLEC operations. The communities and their respective CLEC provider listed in the petition are as follows: Armstrong-Independent Network, Coon Rapids-Municipality, Forest City-Forest City Telecom, Manning-Municipality, Bennett, Delmar, Lowden-F&B Communications and Oxford Junction-Lost Nation.

There are other communities served by Iowa Telecom in which there are competitive telecommunications "providers; however, they" were not a part of the deregulation petition filed.

The petition is being studied by the CLEC providers to determine what action may be necessary. (Independent Networks, F&B Communications, Forest City Telecom, and Lost Nation are RICA members.) ☎

#### Forest City Finds Success with Telemarketing Call Screening

Forest City Telecom (FCTI) is reporting that their telemarketing call screening is a success. Since implementation this past Spring, FCTI customers that have subscribed to the service have had over 37% of calls from tele-marketers blocked. Several customers have experienced over 70% of the "unknown" calls blocked.

Telemarketers delivering calls marked as unknown will receive a message stating the customer does not accept telemarketing calls and to be placed on the do not call list. If the call is not from a telemarketer, they may press one and the call will go through to the customer. All of this is accomplished before the customer's phone rings in their home. ☎

#### Lost Nation To Move From CLEC to ILEC?

In January 1996, the residents of Oxford Junction, Iowa petitioned Lost Nation-Elwood Telephone Company to provide them with local phone service, which was being provided to them by GTE. The first subscribers were cut over November 17, 1997 and now over 90% of the subscribers have switched to Lost Nation's CLEC company. In an interesting turn of events, Iowa Telecommunications Service, Inc. (who acquired the exchange from GTE) has submitted an application requesting that the FCC deem Lost Nation-Elwood Telephone Company to be the ILEC in Oxford Junction, Iowa, and reclassifying Iowa Telecom as a CLEC. Iowa Telecom also requests interconnection rights with Lost Nation. Comments were due July 25, 2001, with reply comments due August 9, 2001. It has been reported that the process has been friendly with both parties in agreement. Some CLECs are watching this development to see if there are potential options for other rural CLECs for similar actions. ☎

#### Eastern Oregon to Launch CLEC Services

Eastern Oregon Telephone (EOT), located in Hermiston, Oregon is getting ready to launch CLEC services this fall. EOT will be competing against Qwest as a full-service provider offering basic phone service, long distance, Internet and broadband. Future plans call for video services.

One of the unique features of EOT is that it is not an ILEC subsidiary. Instead, EOT is a stand-alone operation supported by its major shareholder Umatilla Electric, as well as secondary shareholders that include rural Local Exchange Carriers and power companies.

Under the direction of LeRoy Pilant, EOT is positioned for a successful launch. His vast experience with start-ups, combined with his many years in telephony, have kept EOT focused on the issues important to making a CLEC strong. ☎

#### RICA Will Remain Administrative Support for GVNW

RICA is pleased to announce that GVNW will remain as the administrative support for our association. However, there will be some new faces and new contact information we should be aware of. RICA's administration will now be handled out of Austin, Texas by Tim Raven with support from Stephanie Rodriguez and Anissa Kocian. Please make note of the new address and phone number:

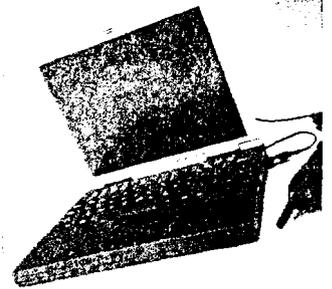
RICA  
701 Brazos, Suite 320  
Austin, TX 78701  
Toll Free: (866) 472-1209  
Fax: (512) 472-1071

Thanks to Bonnie Andermatt for all her hard work supporting the association. Tim and his staff look forward to meeting your needs as RICA members. ☎



#### Don't Miss Fall 2001

Are you ready for another information packed RICA seminar? RICA has quickly built a reputation for seminars loaded with practical solutions, timely advice, and great networking opportunities. Please join us in warm Phoenix, Arizona for our 2001 Fall Conference to be held December 2 - 4, 2001 at the Hyatt Regency at Civic Plaza (602/252-1234 or 800/233-1234). A conference agenda and registration packet will be mailed out soon. ☎



## Resources & Information

[www.ricalliance.org](http://www.ricalliance.org)  
**Members Only Section**  
As a RICA member, you have access to the following information:

**Post a Question**  
Member companies can post a question regarding CLEC activity and receive responses from other member companies.

**Presentations from Past RICA Meetings**  
Many meeting presenters make their presentations available on our website.

**Marketing Cookbook**  
The Cookbook contains sample ads, surveys, sign-up forms and other promotional materials which RICA members can pull ideas.

**Member Listings**  
Listings of Members and Associate Members as well as RICA committee members.

## RICA's Regulatory Seminar Draws a Crowd

In June 26-27, over 80 attendees descended upon Minneapolis-St. Paul for RICA's Rural CLEC Access Seminar.

The agenda included an overview of recent regulatory issues, discussion on the implications of RTF/USF and the MAG plan, current lawsuits and implementation advice on the CLEC access decision. The seminar received high marks and feedback to the question "What did you like most about this seminar?" included:

Topics were very timely.

A lot of good information. A good day and half of my time.

I liked the pure focus on CLEC issues and the interaction of attendees.

Qualified speakers on important topics. Solutions to problems.

Information was pertinent and immediately applicable to our business.

Very informative. Worth the trip. Look forward to the next seminar.

The timing was excellent. Speakers were great. Topics were very good.

Practical information to help with regulatory and billing strategies.

Topics covered were timely and extremely helpful. Good job focusing on the business at hand and forgetting the social functions. ☎



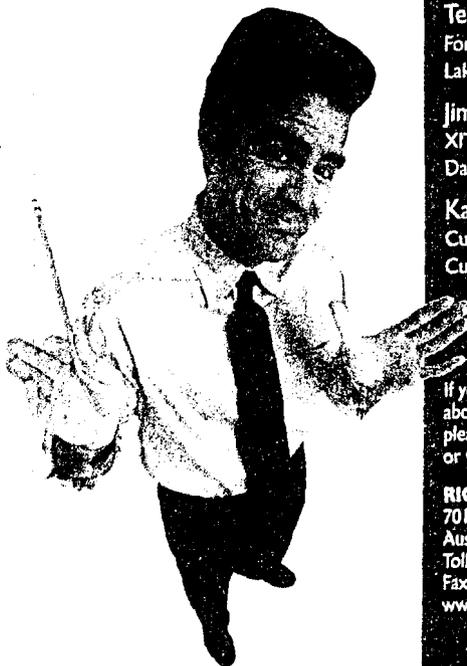
## RICA Hits The Hill Again

In behalf of its members, on July 26 and 27, several RICA members and RICA legal support participated in successful Ex Parte meetings with FCC Commissioners and the staff. Meetings were held with Commissioner Abernathy, Commissioner Martin, Jordan Goldstein (Common Carrier advisor to Commissioner Copps), the Common Carrier Bureau MAG Team, and the Common Carrier CLEC Access staff. Participants included Ron Strecker, Panhandle Telephone; Rick Vergin, Chebardun; and Dave Cosson and John Kuykendall of Kraskin, Lesse, and Cosson. RICA will continue to actively insert itself in regulatory and legal process in its fight for the best interests of RICA members and their customers.

The Commission may take some time before it acts, however. In the meantime, RICA will keep members apprized if we hear of any possible Commission action on RICA's petition. ☎

**December 2 - 4**  
**RICA 2001**  
**Fall Conference**  
 Hyatt Regency at Civic Plaza  
 Phoenix, Arizona

**May 29 - 31 2002**  
**RICA 2002**  
**Annual Meeting**  
 Luxor Hotel and Casino  
 Las Vegas, Nevada



## RICA Board of Directors

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 Cumby, TX

If you would like to learn more about RICA, and RICA membership, please call Tim Raven at 866-472-1209 or visit the web site at [ricalliance.org](http://ricalliance.org).

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