

STATE OF MARYLAND

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January 14, 2002

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

Re: Common Carrier Docket Nos. 96-262, 94-1, 99-249/and 96-45

Dear Ms. Salas:

Enclosed please find the Request of the National Association of State Utility Consumer Advocates for a Second Limited Modification of Interim Protective Order in the above-referenced docket. I have enclosed four (4) copies pursuant to the Commission's Filing Procedures.

I have also enclosed an additional copy for receipt-stamp which I ask that you return to me in the enclosed postage-prepaid envelope.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Michael J. Travieso
Maryland People's Counsel
Chair, NASUCA Telecommunications
Committee as Counsel for NASUCA

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MJT/mcm

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

In The Matter Of Remand of \$650 Million * Common Carrier Docket Nos.
Support Amount Under Interstate Access * 96-262, 94-1, 99-249 and 96-45
Support Mechanism For Price Cap Carriers *

**REQUEST OF THE NATIONAL ASSOCIATION OF
STATE UTILITY CONSUMER ADVOCATES FOR A
SECOND LIMITED MODIFICATION OF INTERIM
PROTECTIVE ORDER (IPO)**

The National Association of State Utility Consumer Advocates (NASUCA) requests that the Common Carrier Bureau modify for a second time at the request of NASUCA its Interim Protective Order entered on April 7, 2000. This modification is warranted to permit NASUCA to use Confidential Line Count Information at the wire center level in this proceeding, established by the FCC to seek comment on the remand of the \$650 million support amount under the Interstate Access Support Mechanism for price cap carriers.

I. BACKGROUND

On May 31, 2000, the Federal Communications Commission adopted the CALLS Order which, among other things, established a new interstate access universal service support fund at a level of \$650 million annually. On September 10, 2001, the United States Court of Appeals for the Fifth Circuit remanded the CALLS Order to the Commission for further analysis and explanation regarding the evidence to support the establishment of the fund at a \$650 million level.

On December 4, 2001, the FCC issued a public notice seeking comment on issues raised by the remand and it also established a schedule for the filing of comments and reply comments. Among the issues on which the FCC has sought comment are the questions of the appropriate cost model to be used and a determination of whether the \$650 million is the support amount that best serves the Commission's universal service goals.

On April 7, 2000, the FCC Common Carrier Bureau released an Interim Protection Order in the Universal Service docket, CC No. 96-45, to facilitate and expedite review of Confidential Line Count Information at the wire center level submitted to the FCC pursuant to Sections 36.611, 36.612 and 54.307 of the Commission's rules. In that Order the Bureau provided that the material could be used, "only for the purpose of reviewing the underlying information and verifying the results of the forward-looking cost mechanism."

On November 20, 2001, NASUCA requested the Common Carrier Bureau to modify the above limitation by permitting NASUCA to obtain and use Confidential Line Count Information for the purpose of producing loop cost studies and evaluating the data and cost studies submitted by price cap LECs in the SLC cap cost review proceeding in Common Carrier Docket Nos. 96-262 and 94-1. In an Order adopted December 5, 2001 and released on December 6, 2001, the Common Carrier Bureau did, in fact, modify the IPO by expanding the circumstances under which Confidential Line Count Information can be obtained and used to include "the purpose of producing loop cost studies and evaluating the data and cost studies submitted by the Price Cap LECs in the SLC cap cost review proceeding in Common Carrier Docket Nos. 96-262 and 94-1."

II. THE REQUEST

NASUCA has obtained Confidential Line Count Information pursuant to the Order of December 5, 2001 which is being used in the manner permitted by that Order, namely to produce cost studies and to evaluate the data and cost studies submitted by the Price Cap LECs in the CALLS cost proceeding. NASUCA now wishes to be given permission to use the Confidential Line Count Information in this proceeding which seeks comments on the remand of the \$650 million support amount for interstate access universal service support.

First, it should be noted that NASUCA is already in possession of the data. NASUCA is not seeking any additional data, only an expansion of the IPO with respect to the manner in which it can use the data. Therefore, there will be no further disclosure to NASUCA of the data claimed to be proprietary by the companies submitting it.

Second, the use to which the data would be put is perfectly consistent with the uses permitted to date by the Common Carrier Bureau. The material would be used to provide comment and analysis on the proper forward-looking cost model which should be used by the FCC to establish the proper amount of the Interstate Access Universal Service Fund. The material would also be used to calculate the proper amount of the Fund. These uses are basically identical to the uses permitted in the IPO and in IPO as amended.

Third, NASUCA would not be using the material in a docket different from the docket in which the question of Universal Service was and is currently being considered. The establishment of the fund in question will require the selection of a forward-looking cost model as well as an analysis of the data to be used with that forward-looking cost

model. NASUCA's use of the Confidential Line Count Information in this proceeding will serve the FCC's purposes by providing additional credible evidence to support a conclusion regarding the proper size of the fund. This task is, of course, exactly the task the Fifth Circuit has required the FCC to perform and it is the same task it performed in the proceeding giving rise to the IPO.

For these reasons, NASUCA requests the following relief:

1. To the extent that the Common Carrier Bureau believes that it would facilitate efficient resolution of universal service support related issues which may arise in the future, NASUCA seeks an amendment of the IPO which would permit it to obtain and utilize Confidential Line Count Information in any proceeding established by the FCC to consider appropriate cost models to be used to establish any universal service fund and any proceeding in which the FCC considers establishing an amount for any universal service fund. NASUCA commits to otherwise be bound by the provisions of the IPO if the FCC expands NASUCA's access in the manner requested in this paragraph.

2. In the alternative, if the Common Carrier Bureau determines not to grant the relief requested by NASUCA in paragraph one, NASUCA requests that the FCC modify the IPO to give permission to NASUCA to obtain and utilize Confidential Line Count Information in connection with comments which it will file in this proceeding relating to the \$650 million support amount for interstate access universal service support. NASUCA commits that it will continue to abide by all of the other provisions of the IPO if this request is granted.

III. CONCLUSION

For the reasons stated, NASUCA asserts that it is reasonable and in the public interest for the Common Carrier Bureau to modify the IPO as requested. In particular, NASUCA believes that it is in the public interest for the Common Carrier Bureau to modify the IPO in the manner requested in the first option provided by NASUCA.

Respectfully submitted,



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Chair, NASUCA Telecommunications
Committee as Counsel for NASUCA

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1-11 day of January, 2002, I caused to be served a true and correct copy of the foregoing Request of the National Association of State Utility Consumer Advocates for a Second Limited Modification of Interim Protective Order by mailing true paper and electronic copies thereof by overnight delivery to the following persons at the addresses listed below:

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Verizon
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Washington, D.C. 20006

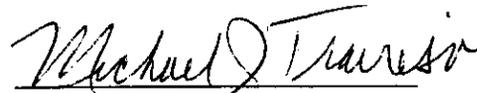
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