

**Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
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| Performance Measurements and Standards for Unbundled Network Elements and Interconnection |) | CC Docket No. 01-318 |
| |) | |
| Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance |) | CC Docket No. 98-56 |
| |) | |
| Deployment of Wireline Services Offering Advanced Telecommunications Capability |) | CC Docket No. 98-147 |
| |) | |
| Petition of Association for Local Telecommunications Services for Declaratory Ruling |) | CC Docket Nos. 98-147, 96-98, 98-141 |
| |) | |

**NATIONAL TELEPHONE COOPERATIVE ASSOCIATION
INITIAL COMMENTS**

The National Telephone Cooperative Association (NTCA)¹ files its Initial Comments in the above-captioned proceeding concerning whether the Federal Communications Commission (Commission or FCC) should adopt a new set of measurements, standards and reporting requirements for evaluating incumbent local exchange carrier (ILEC) performance in the provision of unbundled network elements (UNEs) and interconnection,² and whether any new requirements should apply to all

¹ NTCA is a non-profit corporation established in 1954 and represents 550 rate-of-return regulated rural telecommunications companies. NTCA members are full service telecommunications carriers providing local, wireless, cable, Internet, satellite and long distance services to their communities. All NTCA members are small carriers that are defined as “rural telephone companies” in the Communications Act of 1934, as amended (Act). They are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *In the Matter of Performance Measurements and Standards for Unbundled Network Elements and Interconnection*, CC Docket No. 96-45, *Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance*, CC Docket No. 98-56, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, *Petition of Association for Local Telecommunications Services for Declaratory Ruling*, CC Docket Nos. 98-147, 96-98, 98-141, *Notice of Proposed Rulemaking*, 66 Fed. Reg. 59759 (2001) (NPRM).

ILECs, including small and rural ILECs. NTCA respectfully requests that if the FCC adopts new standards, reporting requirements and enforcement measures that it should state clearly that rural ILECs exempt under Section 251(f)(1)(A) are not required to comply with the new obligations established pursuant to Section 251(c).

I. THE FCC SHOULD CLEARLY IDENTIFY THAT RURAL ILECS EXEMPT UNDER SECTION 251(f)(1)(A) ARE NOT REQUIRED TO COMPLY WITH SECTION 251(c)'S UNE AND INTERCONNECTION OBLIGATIONS AND ASSOCIATED REPORTING REQUIREMENTS.

Section 272(e) requires all Bell Operating Companies (BOCs) subject to interconnection and unbundling requirements of section 251(c) to fulfill any request from a competitor for telephone exchange service and exchange access within a period no longer than the period in which its provides such services to itself or its affiliates.

Section 251(f)(1)(A), however, provides rural telephone companies³ with a statutory exemption from all Section 251(c) duties and obligations, including those that relate to the provision of UNEs, interconnection and collocation. This exemption is effective until a state commission has decided pursuant to Section 251(f)(1)(B) to terminate the exemption. Therefore, if the Commission adopts new Section 251(c) performance measurements, standards and reporting requirements for the provisioning of UNEs, interconnection and collocation, it should make clear that the new obligations apply only to those carriers that are not exempt under section 252(f)(1)(A). Neither the FCC nor a state commission (without a bona fide request for interconnection, services, or network elements) can unilaterally terminate a rural telephone company=s section 251(f)

³ See 47 U.S.C. § 153 (37) for the definition of a “rural telephone company.”
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exemption from the obligations of section 251(c), which would include any new obligations or performance standards for the provision of UNEs.⁴

Because most rural ILECs are exempt from the obligations under Section 251(c), the FCC should also clearly state that these carriers have no obligation to comply with any new measurements, standards and reporting requirements for evaluating ILEC performance in the provision of UNEs and interconnection with other carriers. Even if rural telephone companies were not exempt under 251(f), the Commission should exempt them because the new requirements would only impose unnecessary and unwanted burdens on rural ILECs. The Regulatory Flexibility Act (RFA) permits the FCC to adopt an alternative rule to obtain its objective in a less burdensome way on small entities.⁵ An exemption from any new 251(c) measurements, standards and reporting requirements for all rural telephone companies would be consistent with the RFA and would not hinder the

⁴ See *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147 and *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147, and Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, && 38-41, FCC 01-26 (rel. January 19, 2001) (“We clarify that no state commission can terminate a rural telephone company’s section 251(f)(1) exemption from the obligations of section 251(c), including the Commission’s line sharing obligation, absent a bona fide request for interconnection, services, or other network elements that the state commission determines is not unduly economically burdensome, is technically feasible, and consistent with section 254.”)

⁵ 5 U.S.C § 603.

Commission's efforts to achieve its goal of facilitating efficient competition in the local exchange markets throughout America.

Respectfully submitted,

NATIONAL TELEPHONE
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CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Initial Comments of the National Telephone Cooperative Association in CC Docket No. 01-318, FCC 01-331 was served on this 22nd of January 2002 by first-class, U.S. Mail, postage prepaid, to the following persons

/s/ Gail C. Malloy

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