Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers	)	CC Docket No. 00-256
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation	)	CC Docket No. 98-77
	)	
Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers	)	CC Docket No. 98-166

REPLY COMMENTS OF GENERAL COMMUNICATION, INC.

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SUMMARY

Having recognized that the MAG incentive regulation plan did not properly balance the interests of ILECs and their access customers, the Commission is on the right track in continuing to reject overly-generous ILEC-proposed incentive regulation plans. It is critical that the Commission ignore ILEC rhetoric and use hard economic and competitive analysis in crafting incentive regulation and pricing flexibility for rate-of-return ILECs.

In particular, the Commission's plan should be guided by the following considerations:

- ILEC claims of competition are illusory. Rural competition is generally precluded by the *de jure* barrier of the rural exemption, wireless competition is largely limited to long distance, and neither cable (today) nor satellite nor resale provides any competitive check on ILEC market power.
- Pricing flexibility without competition is plainly anticompetitive. It would allow rate-of-return ILECs to shift costs from attractive, larger business customers to customers who lack alternatives, to lock up attractive customers via contract pricing and volume or term discounts. Tariff review alone is insufficient to prevent these anticompetitive tactics.
- ILEC claims that "one large customer" could drive them out of business and undermine universal service have been significantly addressed through the *MAG Order's* universal service reforms, and can be better further addressed through explicit universal service reforms rather than by granting pricing flexibility in the absence of competition.
- The benefits of incentive regulation must be shared between ILECs and their access customers.

- Incentive regulation must include a traffic-sensitive productivity offset, in order to apportion efficiencies between ILECs and access customers.
- Incentive regulation should be mandatory for holding companies that control more than 50,000 access lines. Such a cutoff will affect no more than two dozen holding companies, not the thousands of independent mom-and-pop operations depicted by the ILECs.

An incentive-regulation plan that incorporates these elements will be fair, easily implemented, and likely to achieve the Commission's goals.

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REPLY COMMENTS OF GENERAL COMMUNICATION, INC.

General Communication, Inc. (GCI) continues to believe that the Commission is on the right track in rejecting overly-generous incumbent LEC-proposed incentive regulation plans in the *MAG Order and Further Notice of Proposed Rulemaking*.[1] The Commission should now stay on course, and examine proposals for incentive regulation and pricing flexibility with strong, economic analysis. The Commission should not let flowery ILEC rhetoric obscure the fact that ILEC claims of competition are substantially illusory – mostly the result of comparing apples to oranges. In particular, wireless substitution for wireline long distance service has no bearing on interstate access competition, wireless and cable telephony services are not yet substitutes for wireline service, and even when those do become substitutes, they will not

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1 Second Report & Order & Further Notice of Proposed Rulemaking, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local*

constrain the access charges paid by long distance companies to originate and terminate traffic. Moreover, for interoffice transport, collocation is indeed a reliable indicator of competition because there cannot be competition for interoffice transport without collocation. Clear economic analysis, rather than platitudes, is critical because pricing flexibility without competition is dangerously anticompetitive, particularly in circumstances where 251(f) continues to safeguard ILEC monopolies. Finally, the benefits of any incentive regulation regime must be apportioned equitably between access providers and access customers, and incentive regulation should be mandatory for the two dozen holding companies that each control more than 50,000 access lines.

GCI believes that competition can bring the same benefits for telecommunications consumers in rural areas as it does in urban areas. Rural incumbents always argue that rural areas must be treated as an exclusive "private preserve" into which competition cannot be allowed, but our experience disproves the natural-monopoly hypothesis. When GCI started providing long distance service to rural Alaska, it caused the incumbent long distance provider to modernize its own long distance offerings – ending the long latency delays that had previously plagued Alaska long-distance services. GCI is now using satellites and unlicensed wireless services to bring high-speed Internet access to remote areas of the Alaska bush. GCI's entry into the "rural" study areas of Fairbanks and Juneau is forcing the incumbent to upgrade both its services and the quality of its customer service. Prodded by the competition from GCI, ACS is now embarking on a major program to upgrade its network and to substitute a packet-switched network for its current circuit-switched network throughout the state. And GCI is not the only company seeking to compete to offer better services to rural America.

Exchange Carriers and Interexchange Carriers, 16 FCC Rcd 19613 (2001) (hereinafter "*MAG*

However, competition such as that provided by GCI will not be able to get off the ground if rural ILECs are allowed to stack the deck of competition to create fortress monopolies. Where competition does exist, it will be unmistakable. But premature or economically inappropriate pricing flexibility based only on hypothetical and hyperbolic claims of potential competition – or that deregulates services for which there are no competitive alternatives – will only serve to allow ILECs to erect entry barriers and deny rural America the dynamic benefits of competition.

I. ILEC PLEAS FOR IMMEDIATE PRICING FLEXIBILITY WITH NO COMPETITION LACK ECONOMIC BASIS AND WILL PERMIT RAMPANT MONOPOLY ABUSES

A. ILEC Claims of Competition Are Illusory

The comments filed by ILEC interests share a recurring theme about competition; namely, that restrictive regulation is not necessary "[w]hen *market forces* make a carrier unwilling or unable to raise rates above market levels."[2] So far as it goes, this truism is unobjectionable. But the ILECs repeatedly assume that a self-regulating, competitive market is already a *fait accompli*, when in fact most rate-of-return ILECs remain dominant in their markets and the main effect of immediate, unmitigated pricing flexibility would be to enable them to erect barriers to competitive entry.[3] ILEC assertions that marketplace "developments" have already paved the way for unrestricted pricing flexibility amount to little more than anecdotal economic non sequiturs, lacking any analytical framework that explains how these "developments" would prevent an ILEC from helping itself to significant, non-transitory price increases.[4]

Order & FNPRM").

2 ITTA Comments at 8.

3 *See* AT&T Comments at 19-22.

4 *See, e.g.*, ITTA Comments at 7 (noting that GCI has brought effective competition to the Anchorage market but failing to explain how this competition will prevent the ILEC, ACS, from

1. Section 251(f)'s "rural exemption" is a substantial, *de jure* barrier to exchange-access competition.

ILEC assertions that "legal and regulatory barriers to competitive entry have fallen,"[5] citing to Sections 251 and 252, are both ironic and misleading. Section 251 and 252 are the Act's critical provisions for implementing local competition. Yet the key portions of Section 251(c), and therefore also Section 252, are not applicable to a rural telephone company unless and until the state commission has terminated that company's rural exemption under Section 251(f). Rural telephone companies around the country have aggressively litigated the rural exemption, and have used the exemption to stymie competition for years. In Alaska, rural exemption litigation (which continues to this day) delayed GCI's entry into the Fairbanks and Juneau markets for over four years, and continues to impede GCI's plans to expand its offerings beyond Anchorage, Fairbanks and Juneau.

The fact of the matter is that even potential competition (which is the weakest form of possible price discipline on the exercise of market power) is not possible so long as the state commission has not lifted the rural exemption.[6] There is no basis for any finding that potential

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using pricing flexibility to disadvantage GCI in various ways relating to ACS' huge facilities advantage).

[5] Alltel *et al.* Comments at 13.

[6] Theoretically, it may be possible for a full-facilities-based CLEC to enter a rural ILEC's market, provided that the CLEC can obtain a reciprocal compensation agreement from the ILEC. However, if the ILEC refuses to enter into such an agreement, Section 251(f) would appear to preclude that CLEC from seeking state commission arbitration of that dispute. Moreover, the ILEC would not be required, pursuant to Section 251(c)(1), even to negotiate in good faith over interconnection and reciprocal compensation until after the state commission has lifted the rural exemption. And it is unclear whether a CLEC will be able to receive ETC designation when the rural exemption has not been lifted. *See* Order Establishing Procedures, Denying Evidentiary Hearing, Setting Prehearing Conference on Eligible Telecommunications Carrier Issues, Appointing Hearing Examiner, Inviting Intervention, and Requiring Briefs, *In the Matter of the Application of AP&T Wireless, Inc. for a Certificate of Public Convenience and Necessity to Provide Local Exchange Telephone Service in Competition with an Existing Local Exchange Carrier; Request by AP&T Wireless, Inc. for Designation as a Carrier Eligible to Receive Federal Universal Service Support Under the Telecommunications Act of 1996 for the Ketchikan*

competition exists, let alone actual competition, until after the rural exemption has been lifted. This is true with respect to all forms of competition, including full facilities-based competitors, who still need to interconnect with the incumbent LEC.

2. Wireless substitution for wireline long distance is neither local nor exchange-access competition.

Several ILECs argue that substitution of wireless-based *long distance* services for traditional wireline *long distance* services is evidence that wireless is emerging as a "viable alternative" to traditional wireline *local* service, creating a competitive threat to rate-of-return ILECs.[7] This assertion is laughable. Wireless substitution for wireline long distance is a real phenomenon, but its impact is limited to competition for long-distance service, and it has nothing at all to do with competition for local-exchange or exchange-access service.

ILECs offer no explanation of how wireless substitution for long-distance service affects exchange-access pricing—nor could they. Exchange access is, for the most part, charged to interexchange carriers (IXCs), not to end users, and is therefore recovered from end users only after being IXCs have rolled those charges into long distance rates subject to toll-rate averaging and rate-integration requirements. There is no incentive for an ILEC to reduce exchange-access prices in response to wireless substitution for long-distance service because there is no way for its customers to benefit through lower long distance prices—unless the ILEC has its own LD affiliate and is allowed to self-deal for access on terms that are effectively discriminatory, *and* is in a jurisdiction with below-average access charges. Thus, it is not clear what TCA is talking about when it says it needs pricing flexibility to counter wireless service offerings by improving

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Area, Docket No. U-01-109, Order No. 1, Docket No. U-01-146, Order No. 1 at 5-6 (Reg. Comm'n of Alaska, rel. March 12, 2002), available at http://www.state.ak.us/rca/orders/2002/u01109_1.pdf.

[7] *E.g.*, NRTA/OPASTCO/USTA Comments at 17-18.

interstate service offerings,[8] and how this is carried out without violating other Commission rules. Wireless substitution for wireline long distance service is simply irrelevant to the issue of pricing flexibility for interstate access charges.

3. Cable telephony and wireless local loop are not ubiquitous and do not provide a competitive alternative for IXCs to originate or terminate traffic.

The ILECs' next flight of fancy is the assertion that cable telephony and wireless local loop are today providing ubiquitous competition for ILEC local exchange and exchange access services.[9] This assertion fails on three levels: first, as previously discussed, the Section 251(f) rural exemption is a *de jure* barrier to entry that will generally prevent the broad and rapid deployment of wireless local loop and cable telephony services, even when those technologies are ready for deployment; second, neither wireless local loop nor cable telephony nor satellite telephony is a ubiquitous competitive alternative today, but is available at present only in a few areas; third, even once these forms of full-facilities competition (and even UNE-based competition) are in place, ILECs still retain and can exercise substantial market power in the market for exchange-access services.

Although wireless service has been dropping in price, there is little evidence that CMRS service has become a substitute for wireline local exchange and exchange access services. The ILEC commenters offer no market or economic studies to show that in rural markets wireless is actually mitigating the ILEC's ability to sustain a significant, non-transitory increase in the price of local-exchange service (assuming one were to be permitted by regulators), whether on the first line or on additional lines. The FCC has previously rejected the contention that wireless

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8 *See* TCA Comments at 5.

9 *See* ITTA Comments at 9.

constitutes a facilities-based alternative for the purposes of applying Section 271.[10] The FCC has never, even in highly urban markets, found CMRS to be a significant substitute for landline service, nor that it constrains an ILEC's ability to execute a small, but significant and non-transitory, increase in price. Indeed, although the FCC has noted that some trade press articles report that as many as 3% of customers nationwide may use wireless exclusively,[11] it has conducted no analysis of whether this is true substitution across a wide range of mass market customers or whether (as is more likely) this simply reflects that there is a market niche (*e.g.*, real estate agents, travelling sales staff, or students who may spend little time in their residence) for whom the attribute of mobility is paramount.[12]

There are, of course, a few wireless carriers, such as Western Wireless, that are marketing wireless local loop services as a substitute for wireline local exchange and exchange access services. These carriers, however, remain the exception rather than the rule. Moreover, it is not at all clear that wireless local loop will be technically or commercially feasible in all locations. AT&T, for example, had operated its "Project Angel" fixed wireless local loop trials in Anchorage, and shut down that trial last year. GCI has itself experimented with fixed wireless local loops, and has found technical obstacles to their widespread use. Even where wireless local

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[10] Memorandum Opinion & Order, *In re Application of BellSouth Corp., BellSouth Telecom., Inc., & BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana*, 13 FCC Rcd 20599, 20625-32 (1998).

[11] Sixth Report, *In re Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report & Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, 16 FCC Rcd 13350, 13381 (2001).

[12] The polls cited by NRTA/OPASTCO/USTA, *see* NRTA/OPASTCO/USTA Comments at 17-18, are similarly unrevealing. Even if a significant minority of wireless telephone owners believe they rely more on their wireless telephone than their wireline telephone, this does not indicate that those customers are actually willing to drop their wireline telephone service in response to a small but significant and non-transitory increase in price. Indeed, when wireline local service is sold on a flat-rate basis (as is most often the case), the substitution of wireless

loop does work, ILECs have vigorously battled the expansion of these carriers (and all others) at every turn. So they can hardly be seen now to claim that these wireless local loop providers are so ubiquitous that we no longer have to worry about ILECs abusing their monopoly power.

The same is true with respect to cable telephony. Indeed, while the number of areas in which cable telephony is offered is growing, it is still a small minority of the country. GCI, for example, plans to shift to cable telephony services over its own cable plant, but GCI is only at the initial stages of testing cable telephony services. Full commercial deployment will happen, but it is not here now and will not be here for some time. There is no basis for claiming that competition exists today based on deployments that have not yet been made with technologies that are still being developed and commercialized.

UNE loop-based competition, as well as UNE-P based competition, does offer consumers a competitive choice that, unlike resale, is not tethered to ILEC pricing decisions, and so can exert a degree of price discipline on ILEC retail rates charged to end users.[13] However, as the Commission cogently observed in the *CLEC Access Charge Order*, once the end user selects the ILEC as its provider of local exchange service, the IXC has no choice other than to use the ILEC to originate and terminate its long-distance calls, and, because of toll rate averaging and rate integration requirements, cannot use long-distance pricing to send appropriate price signals to the end user.[14] The same is true when wireless local loop or cable telephony providers ultimately enter and penetrate the local-exchange market: these alternatives in no way limit ILEC market

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local usage for wireline local usage has no effect on the local telephone company's revenues unless service is dropped.

[13] Both UNE-L and UNE-P also permit CLECs to provide innovative services and service packages, without being tied to the ILEC's offerings and packages.

[14] Seventh Report & Order & Further Notice of Proposed Rulemaking, *Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, 16 FCC Rcd 9923, 9935 (2001).

power over local switching and common transport.[15] No ILEC even mentions the Commission's analysis in the *CLEC Access Charge Order*, let alone explains why it is incorrect. This silence speaks volumes. Indeed, it would be reversible error to conclude, in the wake of the *CLEC Access Charge Order*, that ILECs lack market power with respect to their IXC customers with respect to switched-access services.

4. 251(c)(4) resale provides no competitive check on ILEC market power.

Resale under Section 251(c)(4) also provides no competitive check on ILEC market power, either with respect to end-user retail charges (including SLCs) or switched-access charges. The reason resale presents no competition with respect to switched-access charges is simple: the ILEC still charges and retains the full access charge. Resale does not disrupt the ILEC monopoly with respect to access at all.[16]

Because resale is a discount from the ILEC's retail price, the resale CLEC's wholesale costs are directly linked to the ILEC's retail price. Thus, if the ILEC increases its retail price, the wholesale price to the CLEC also rises, and the CLEC must also increase price. Recent experience in Anchorage, Alaska bears this out. ACS, the ILEC in Anchorage, recently raised its retail rates 24%. AT&T Alascom, which serves Anchorage using Section 251(c)(4) resale, was necessarily forced to raise its retail prices as well. Because GCI is predominantly a UNE-L

[15] These networks also are not, in and of themselves, competitive alternatives for dedicated transport, unless the network operators collocate and interconnect their fiber facilities to provide dedicated transport competition.

[16] In addition, as the Commission recognized in the *Local Competition First Report & Order*, CLECs using 251(c)(4) resale "cannot offer services or products that incumbents do not offer." First Report & Order, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 15499, 15667 (¶ 332) (1996).

CLEC, ACS' retail rate increase did not automatically increase the rates GCI paid for unbundled loops, and thus GCI was able to hold the line against price increases.[17]

5. Satellite direct-to-home broadband is not local-exchange or exchange-access competition.

Stretching still further, Alltel *et al.* argue that satellite-based direct-to-home broadband services are a form of local exchange or exchange access competition that will discipline ILEC market power.[18] They provide no market analysis for their claim, and no explanation of the link between satellite broadband and the exchange-access services and rate elements for which they are seeking pricing flexibility. Indeed, satellite-based broadband is not a voice service alternative at all, and cannot be used to originate or terminate interstate long-distance traffic.

In any event, even in a properly defined broadband market, it is highly doubtful that satellite based services will be of sufficient quality and low enough price to exert a price discipline on ILEC-provided broadband services. As the Commission recently noted, satellite-based broadband services are "subject to propagation delay (delay in the transmission of signals that results from the time it takes the signals to travel between the satellites and earth stations or the end user), and is available at a higher cost than wireline services."[19] These quality and price differentials make it more likely that satellite direct-to-home broadband will be a complement to terrestrial broadband, rather than a substitute, primarily serving the millions of consumers that will never be reached by either cable modem or DSL service. Moreover, because of the satellite

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17 The same would have been true if GCI had been a UNE-P based CLEC, so the facilities-based, non-facilities-based distinction is immaterial. At the same time, ACS also was permitted to increase UNE rates, although in a lower amount than the retail rate increase. Notwithstanding the UNE rate hike, GCI held the line and did not increase its local rates.

18 Alltel *et al.* Comments at 18.

19 Declaratory Ruling and Notice of Proposed Rulemaking, *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities*, GN Docket No. 00-185 & CS Docket No. 02-52, FCC 02-77, at n. 24 (rel. Mar. 15, 2002).

footprint, some parts of Alaska cannot receive service from today's satellite-based direct-to-home broadband providers.

6. Collocation is an appropriate trigger for special-access and dedicated-transport pricing flexibility, other than for channel terminations.

ILEC interests argue that collocation is not a relevant "trigger" for pricing flexibility, but they fail to provide any substantial basis for this assertion.[20] To the extent the ILECs point to the "formidable competitors"[21] of CMRS, satellite, and cable CLECs, these providers are not generally providing competitive alternatives for special access or dedicated transport services, and ILECs present no data showing that they do. Moreover, with respect to dedicated transport, ILEC opposition to collocation as a pricing flexibility trigger ignores the fact that transport is a point-to-point service, and that transport between two different points are not substitutes. Collocation is therefore necessary—but not necessarily sufficient—for transport competition to exist between an ILEC end office and other points.

In rural LEC areas, just to be able to obtain collocation, a CLEC must overcome significant ILEC-imposed obstacles. Because collocation is available only under Section 251(c)(6), in order for a CLEC to be able to obtain collocation, the state commission must lift the rural exemption under Section 251(f). As GCI's experience in Fairbanks and Juneau has shown, this step alone can take years.[22] In the absence of collocation, there is not even potential competition for dedicated transport or for special access competition provided over a CLEC's transport facilities in conjunction with an ILEC-provided channel termination.

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[20] *See, e.g.*, ITTA Comments at 8-9.

[21] ITTA Comments at 9.

[22] Indeed, ACS continues to ask the FCC to promulgate an unnecessary, national "burden of proof" rule for rural exemptions so that it can then attempt to vitiate its interconnection agreements with GCI for Fairbanks and Juneau and cut off GCI's access to collocation and unbundled network elements. *See* GCI Opposition to Petition for Reconsideration, CC Docket No. 96-98 (filed Oct. 11, 2001).

Even once a CLEC is able to obtain collocation, ILECs still erect anticompetitive barriers and engage in blatant monopolistic practices, such as imposing unnecessary facilities charges (*e.g.*, additional channel terminations or entrance-facility charges).[23] ILECs can limit the areas subject to transport and special access competition by converting end offices into remotes, and using remotes that do not permit expanded interconnection at the remote.[24] Once an interconnection-incapable remote is installed, it is no longer possible to have facilities-based competition in transport between that remote and other points, and so the ILEC again becomes a monopolist, carrying all traffic at least as far back as the host. In some cases, this can mean that a competing transport provider must interconnect in another study area, served by a different telephone company.

Unfortunately, such a scenario is not merely hypothetical. ACS recently converted an end office switch in its North Pole study area into a remote served from a host end office in a neighboring study area in Fairbanks.[25] At this point, GCI can no longer directly interconnect with the North Pole end office on the trunk side of the switch, as it used to do. Instead, GCI must now pay ACS to haul its switched access traffic from the North Pole study area to Fairbanks, where GCI can then pick it up.[26]

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[23] GCI Comments at 14.

[24] Although some Lucent remotes permit expanded interconnection at the remote, Nortel remotes do not.

[25] The North Pole and Fairbanks study areas are even served by different subsidiaries within ACS.

[26] GCI can still collocate in North Pole for the purpose of gaining access to unbundled network elements, and for interconnecting a UNE loop with its own transport facilities. However, because ACS installed a remote that is incapable of expanded interconnection, GCI cannot take advantage of economies of scale to use its own facilities to also transport switched-access traffic bound for customers that are GCI long-distance customers, but who have ACS' local service.

GCI reiterates, however, that collocation is not a relevant trigger for pricing flexibility for channel terminations. Channel terminations are loops, and thus while collocation is necessary to have access to the channel terminations, and may permit use of the channel termination to connect to CLEC-provided transport, collocation does not indicate the presence of a competitive alternative to the channel termination.[27]

B. Pricing Flexibility without Competition in the Service for which Flexibility Is Sought Is Anticompetitive.

Numerous times, the FCC has recognized that pricing flexibility without competition can be anticompetitive. It can enable incumbent LECs to increase rates to unreasonable levels.[28] It can enable incumbent LECs to "erect a barrier to competitive entry,"[29] for example, by "deaverag[ing] its rates so that the attractive customers received very low rates, or it could lock up customers before entry began through the use of lengthy term contracts."[30] Moreover, deaveraging or volume and term discounts may not just reflect cost differences, but, in the absence of ubiquitous competition, an ILEC "could, absent some restriction, increase rates excessively for remote customers or for low-volume customers to offset reductions resulting from the introduction of deaveraged rates or volume discounts for higher-volume customers."[31]

For these reasons, when the Commission considered pricing flexibility for price cap LECs, it recognized that any pricing flexibility framework must ensure that: "(1) [incumbent]

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27 GCI Comments at 15.

28 Fifth Report & Order & Further Notice of Proposed Rulemaking, *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers, Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers; Petition of US West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA*, 14 FCC Rcd 14221, 14257 (1999) ("*Price Cap LEC Pricing Flexibility Order*").

29 *MAG Order & FNPRM*, 16 FCC Rcd at 19715 (¶ 250).

30 *Id*.

31 *Id*.; *see also* AT&T Comments at 20.

LECs do not use pricing flexibility to deter efficient entry or engage in exclusionary pricing behavior; and (2) [incumbent] LECs do not increase rates to unreasonable levels for customers that lack competitive alternatives."[32] Granting rate-of-return ILECs' pleas for immediate pricing flexibility without any competitive triggers would fail to address these previously identified risks of anticompetitive conduct.

1. Upward pricing flexibility without competition allows exclusionary conduct and rate increases for customers that lack competitive alternatives.

Upward pricing flexibility without competition will simply lead to unjust and unreasonable and therefore unlawful monopolistic rates. When the ILEC has no competition in the service it seeks to offer in the relevant geographic market (always local, with respect to local exchange and exchange access services), it possesses what the Commission has termed "Stiglerian" market power; *i.e.*, it can raise the price simply by restricting its own output and refusing to sell at a lower price.[33] Commission price regulation through tariffs is directed at thwarting the exercise of Stiglerian market power, and thus Phase II pricing flexibility cannot be granted for any ILEC service in the absence of a competitive showing.

Simply offsetting price increases against price reductions elsewhere in the study area, such as might occur if geographic deaveraging were allowed, does not eliminate the anticompetitive harm from granting pricing flexibility without competition. First, from the standpoint of the consumer whose rate is increased to monopoly levels, it does not matter if some other consumer's rate is decreased. The consumer being subject to the monopoly rate is still being forced to pay an unjust and unreasonable rate. Second, in the absence of competition in

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32 *Price Cap LEC Pricing Flexibility Order*, 14 FCC Rcd at 14225 (¶ 3).

33 *Broadband Transmission Non-Dominance NPRM*, FCC 01-360, at ¶ 28; *Regulatory Treatment of LEC Provision of Interexchange Services originating in the LEC's Local Exchange*

the geographic market in which rates will be *increased* for the *customer whose rates will increase* (*i.e.*, the IXC, not the end user in the case of switched access), and in the absence of some kind of regulatorily-imposed limit, there is no assurance that geographic deaveraging will result in cost-justified deaveraging. When neither the market nor the regulator limits the ILEC's ability to engage in non-cost-based deaveraging, even revenue-neutral deaveraging can permit ILECs to shift the costs of serving attractive customers to less attractive customers, and allow the ILEC to cross-subsidize in order to prevent competitive entry from occurring in the first place.

Moreover, the Commission must also recognize that existing rate-of-return mechanisms such as pooling severely limit its (and CLECs' or IXCs') ability to monitor any rate-of-return LEC geographic deaveraging to determine whether the deaveraging is cost-based. Rate-of-return LECs in the NECA pool, for example, do not submit cost studies as part of the tariff process. Pricing flexibility, even geographic rate averaging, for pooling LECs therefore becomes, in essence, a carte blanche to raise some rates and lower others in an anticompetitive fashion.

2. ILECs have not justified additional geographic deaveraging authority.

In light of these potential anticompetitive harms from premature pricing flexibility, including geographic deaveraging, in the absence of actual competition, ILECs cannot justify their requests for further geographic deaveraging authority. As the Commission noted in the *MAG Order and FNPRM*, it has already granted ILECs substantial ability to deaverage rates geographically. Dedicated transport, common transport and special access rates, for example, can be geographically deaveraged upon a showing of a single cross-connect in a single wire center within the ILEC's study area.[34] This is hardly a burdensome threshold, and, as previously

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Area and Policy and Rules Concerning the Interstate, Interexchange Marketplace, 12 FCC Rcd 15756, 15802 (¶ 83 & n. 214) (1987) ("*LEC Classification Order*").

[34] *MAG Order and FNPRM*, 16 FCC Rcd at 19711-12 (¶ 241); *see also* Report & Order, *Expanded Interconnection with Local Telephone Company Facilities, Amendment of the Part 69*

discussed, already allows geographic deaveraging for dedicated access and special access even where ILECs have implemented network architectures that preclude collocation and expanded interconnection at remotes, so long as the single cross-connect test is satisfied. Similarly, in the *MAG Order and FNPRM* itself, the Commission granted rate-of-return LECs the ability to deaverage SLCs according to USF support disaggregation zones.[35] Even where the ILEC's SLCs are at the cap, the *Order* permits voluntary reductions in the SLC rates, although the voluntary reductions will not entitle the ILEC to increase other rates or the amount of Interstate Common Line Support that it receives.[36] ILECs fail to demonstrate how these existing geographic deaveraging authorities are inadequate to allow them to respond to competition when competition ultimately arrives.

The only elements for which the Commission has not granted rate-of-return LECs geographic deaveraging to date are traffic sensitive elements, such as local switching.[37] Indeed, the Commission has not even allowed the price cap LECs to deaverage these rates.[38] This makes sense for at least two reasons. First, as the Commission noted in the *Price Cap LEC Pricing Flexibility Order and FNPRM*, parties have generally argued that traffic-sensitive costs vary little within study areas.[39] Local switching costs certainly do not vary within the same wire center, as all loops within the wire center are served by the same switch, and so there would be

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Allocation of General Support Facility Costs, 7 FCC Rcd 7369, 7454 n. 411 (1992), *vacated in part and remanded, Bell Atlantic Tel. Cos. v. FCC*, 24 F.3d 1441 (D.C. Cir. 1994); Memorandum Opinion & Order, *Expanded Interconnection with Local Telephone Company Facilities*, 9 FCC Rcd 5154, 5196 (1994); Second Report & Order & Third Notice of Proposed Rulemaking, *Expanded Interconnection with Local Telephone Company Facilities, Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, 8 FCC Rcd 7374, 7425-32 (1993).

35 *Id*. at 19641-42 (¶¶ 57-60).

36 *Id*.

37 The *MAG Order and FNPRM* eliminated the residual transport interconnection charge.

38 *See Price Cap LEC Pricing Flexibility Order & FNPRM*, 14 FCC Rcd at 14323.

39 *Id*.

no basis for geographically deaveraging switching on, for example, a density zone basis. Second, as previously discussed, once the end user selects the access provider, the interconnecting IXC has no choice as to the provider of local switching, so there is no market-based competition to force an ILEC to deaverage its local switching rates according to underlying costs. This creates a substantial risk that geographic deaveraging authority would simply be used for anticompetitive purposes.

Furthermore, if the Commission permits geographic deaveraging of local switching charges, it must also coordinate that deaveraging with its pricing of unbundled local switching as a UNE, and with its universal service support program. If switching costs do vary and rates are therefore allowed to be deaveraged, then, for example, local switching support should also be deaveraged in a manner that reflects the underlying switching costs (rather than loop costs).

3. ILECs do not refute the Commission's prior findings that contract pricing and volume and term discounts without competition create substantial risk of customer "lock-up" and other barriers to entry.

ILECs do not refute the Commission's prior findings that premature contract pricing and volume and term discounts can lead to customer "lock-up" and other anticompetitive barriers to entry. They argue instead that competition already exists.[40] As has already been demonstrated, this is simply not so. It would be arbitrary and capricious for the Commission now to disregard these previously acknowledged anticompetitive harms without any basis in the record for concluding that they have been mitigated by marketplace developments.

4. Volume and term discounts and contract pricing can substantially undermine safeguards against ILECs exploiting bottleneck control in the interexchange services market.

Unless limits are imposed on ROR ILECs' contract tariffs and volume and term discounts with their own affiliated IXCs, those contract tariffs and volume and term discounts would permit ILECs to avoid key safeguards stopping them from exercising market power and creating anticompetitive price-margin squeeze by raising rivals' costs.[41] ILEC contract tariffs with affiliated IXCs, therefore, should be prohibited except in limited circumstances, such as where the ILEC is simply taking advantage of a contract deal entered into with non-affiliated IXCs. ILEC volume and term discounts should be limited to a term of not more than three years.[42]

In the *LEC Classification Order*, the Commission concluded that "an independent LEC, like a BOC, potentially could use its market power in the provision of exchange access service to advantage its interexchange affiliate by discriminating against the affiliate's interexchange competitors with respect to the provision of exchange and exchange access services."[43] In addition, the Commission observed that

> absent appropriate regulation, an independent LEC could potentially raise the price of access to all interexchange carriers which would cause competing in-region carriers to either raise their retail rates to maintain the same profit margins or attempt to maintain their market share by not raising their prices to reflect the increase in access charges, thereby reducing their profit margins. If the competing in-region, interexchange providers raised their prices to recover the increased access charges, the independent LEC could seek to expand its market share by not matching the price increase. The independent LEC could also set its in-region, interexchange prices at or below its access prices. The independent LEC's in-region competitors would then be faced with the choice of lowering their retail rates, thereby reducing their profit margins, or maintaining their retail rates at the higher price and risk losing market share.[44]

In order to prevent the independent ILEC from using its control of exchange and exchange access facilities to engage in cost misallocation, unlawful discrimination or a price squeeze, the Commission adopted a set of separation requirements in order for an independent ILEC's interexchange affiliate to be classified as non-dominant, including the requirement that exchange

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40 ITTA Comments at 9; NRTA/OPASTCO/USTA Comments at 17.

41 *See Non-Accounting Safeguards Order*, 11 FCC Rcd at 21912.

42 GCI Comments at 16.

43 *LEC Classification Order*, 12 FCC Rcd at 15849 (¶ 160).

44 *Id*. (¶ 161).

access services be taken “at tariffed rates, or . . . on the same basis as requesting carriers that have negotiated interconnection agreements pursuant to section 251.”[45]

As GCI explained in its initial comments, permitting an ILEC to set an unlimited schedule for volume and term discounts simply invites the ILEC to create an artifice to avoid these safeguards for interexchange competition. An ILEC can self-deal with its interexchange affiliate simply by granting itself discounts under term commitments that are so long, no other arms-length carrier would ever agree to them.[46]

The same is true with respect to contract pricing. If an ILEC has the unfettered discretion to enter into contract pricing with its own affiliate, it can give its affiliate access on discriminatory terms that facilitate the execution of an anticompetitive price squeeze. Rather than requiring the ILEC to provide service to itself on the same terms and conditions as it offers to all others, contract pricing for the ILEC’s affiliate simply allows the ILEC to avoid the regulatory safeguard. The Commission should thus preclude independent ILECs from entering into contract tariffs with their own affiliates, except perhaps where the contract has already been made available to an unaffiliated interexchange carrier.

5. Downward pricing flexibility for rate-of-return LECs simply shifts recovery to other customers, in the absence of safeguards.

Downward pricing flexibility for ROR carriers, through the operation of the rate-of-return mechanism, leads to cost shifting in the absence of some other safeguards such as a move to revenue-per-line calculation. This cost shifting occurs simply because rate-of-return regulation permits the ILEC to recoup foregone revenues. Thus, if the Commission is going to permit downward pricing flexibility for any rate-of-return LEC, it must also ensure that the ILEC is not permitted to raise other rates to offset these discounts. For this reason, when the Commission

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45 *Id*. at 15850 (¶ 163).

granted ACS' request for a waiver to offer volume and term discounts for local switching and TIC, it required ACS to continue to calculate its general tariffed rates for local switching and TIC by including all demand, including demand under volume and term discounts.[47]

In any event, because neither the Commission nor access purchasers can verify that pooling LECs in fact calculate generally available rates including all demand, members of the NECA pool should not be eligible even for downward pricing flexibility. The non-transparency of the NECA tariff process, and the lack of study area specific calculations exacerbates the potential for anticompetitive harm.

6. The truncated tariff process does not adequately prevent cost-shifting.

Finally, ITTA's suggestion[48] that the Commission rely on tariff review as the primary safeguard against cost-shifting and other competitive abuses is unworkable, because tariff review is an inadequate mechanism to detect competitive abuses. First, the review time frames—fourteen days if rates increase or other terms change, seven days otherwise—are far too short to provide meaningful protection. Second, the fact that such tariffs are "deemed lawful" after such short review periods precludes refunds for overcharges that result from premature flexibility (at least in the absence of overearnings).[49] Third, NECA-pooled LECs don't submit their own cost data, so that data can never be scrutinized in any event.

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46 GCI Comments at 16.

47 *See* Order, *In re ATU Telecommunications Request for Waiver of Sections 69.106(b) & 69.124(b)(1) of the Commission's Rules*, 15 FCC Rcd 20655, 20662-63 (2000) ("*ATU Waiver Order*").

48 *See* ITTA Comments at 5.

49 *See* Memorandum Opinion & Order, *In re General Communication Inc. v. Alaska Communication Sys. Holdings, Inc.*, 16 FCC Rcd 2834, 2855-56 (2001) (*GCI v. ACS*), *appeal pending sub nom. ACS v. FCC*, No. 01-1059 (D.C. Cir.).

In light of the foregoing, the Commission should take care to reserve pricing flexibility for those situations when "competitors have made irreversible investments in the facilities needed to provide the services at issue, thus discouraging incumbent LECs from successfully pursuing exclusionary strategies."[50]

C. Universal-Service Considerations Do Not Justify Price Flexibility in the Absence of Competition

Some ILEC interests have attempted to justify premature, unjustified pricing flexibility by prophesying that "the loss of one large customer" would be enough to drive some ILECs out of business and thereby undermine universal service.[51] The typical ROR ILEC is not nearly so fragile as NTCA would have the Commission believe, provided, of course, that the ILEC has cost-based rate structures and that, as GCI believes to be the case, the Commission has adequately addressed interstate universal service reform. The *MAG Order and FNPRM*, for example, will significantly reduce the universal service impact of the loss of a single large customer because support for the ILEC's high-cost loops will be provided through interstate common line support (ICLS) on a per line basis, which the ILEC retains as long as it serves the great mass of customers.[52] NTCA's concerns are grounded in the carrier common line (CCL) charge system, under which revenues would have been lost in one fell swoop along with the large customer's access minutes. CCL, of course, is being phased out in favor of ICLS and will be gone entirely in 15 months.[53]

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50 *Price Cap LEC Pricing Flexibility Order*, 14 FCC Rcd at 14258 (¶ 69).

51 NTCA Comments at 9.

52 *See MAG Order & FNPRM*, 16 FCC Rcd at 19642-46 (¶¶ 61-68).

53 *See id.* at 19644-45 (¶ 65).

Any remaining concerns about ILECs' vulnerability to the loss of a single large customer can be dispelled even further by granting the RCC Coalition's Petition for Reconsideration[54] and providing explicit support for high switching and transport costs in rate-of-return ILEC areas on a per-line basis, reducing switched access prices accordingly. Such a scheme would further reduce the price of access *and* reduce ILEC vulnerability to the loss of a single customer, without risking the competitive harms of premature pricing flexibility. Such support can also be better targeted, where necessary, to reflect underlying cost differences for switching and transport.

What the rate-of-return ILECs really appear to want is to continue to use toll averaging to transfer the recovery of high local exchange and exchange access network costs to long distance customers in other areas, thereby locking out local competition in the mass market, while at the same time receiving pricing flexibility so that they can lock out the competition for high volume customers that high access rates invite. This is not a statutorily-permissible objective,[55] and it is explicitly foreclosed by Section 254(e)'s direction that universal-service support be explicit.[56] The statute directs the Commission to support universal service in a particular manner—through explicit subsidies for specifically designated services—and the Commission cannot grant pricing flexibility in order to give rate-of-return ILECs a "heads-I-win-tails-you-lose" bulwark against competition.

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[54] *See* Rural Consumer Choice Coalition Petition for Reconsideration, *In re Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers & Interexchange Carriers*, CC Docket Nos. 00-256, 96-45, 98-77, & 98-166 (filed Dec. 28, 2001) ("*RCC Coalition MAG Petition for Recon.*), at 1-2 (requesting four specific changes to the *MAG Order & FNPRM*).

[55] "'O what a tangled web we weave, when first we practise'—dare we say, 'to relieve'?" *Competitive Telecom. Ass'n v. FCC*, 87 F.3d 522, 533 (D.C. Cir. 1996).

[56] *See COMSAT v. FCC*, 250 F.3d 931, 939 (5th Cir. 2001) ("[T]he FCC cannot maintain any implicit subsidies, whether on a permissive or mandatory basis.") (quotation omitted); *see generally RCC Coalition MAG Petition for Recon.* at 12-13.

D. No Pricing Flexibility Is Justified Where the ILEC Is Still Protected by the 251(f) Rural Exemption

As previously discussed, Section 251(f) of the Communications Act is a *de jure* barrier to competitive entry.[57] Unless local exchange competitors can find a way to obtain interconnection and reciprocal compensation agreements without having to resort to state commission arbitration, there will be no competition (and therefore no conceivable basis for granting pricing flexibility) so long as 251(f) continues to squelch competition in a particular market.[58] Rate-of-return ILECs have also failed to provide any evidence that special-access competition is likely under the 251(f) regime; the inability even to collocate and provide transport competition as a minimal CLEC leveraging of investment needed for special access creates a substantial barrier to special-access-only entry. There is simply no reason to grant any pricing flexibility to an ILEC that is still protected by the rural exemption.

II. BALANCED INCENTIVE REGULATION MUST SHARE BENEFITS, INCLUDING PRICE REDUCTIONS

A. A Traffic-Sensitive Productivity Offset Is Necessary to Apportion Efficiencies Between Access Providers and Access Purchasers

Significantly, no commenter challenges the Commission's rejection of the flawed Multi-Association Group (MAG) proposal for incentive regulation. As the Commission recognized and as GCI pointed out in its comments, that plan failed to "recogni[ze]...the productivity gains that historically have been realized by the telephone industry," and thus would not have yielded

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57 *See* 47 U.S.C. § 251(f)(1)(A) ("Subsection (c) of this section *shall not* apply to a rural telephone company until (i) such company has received a bona fide request for interconnection, services, or network elements, and (ii) the State commission determines (under subparagraph (B)) that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof)) (emphasis added).

58 See n.6, supra.

just and reasonable rates.[59] AT&T further demonstrates that had the MAG Plan been in place from 1995 to 2000, because it increased revenue requirement and had no productivity offset, by 2000 incumbent LECs would have had annual revenues nearly $750 million higher than under rate-of-return regulation.[60]

The comments further make clear that to avoid turning incentive regulation into an ILEC "money-pump," productivity offsets are necessary for traffic sensitive rates. As GCI has previously observed, the FCC's own regression analysis conducted with respect to modeling switch costs of the Hybrid Cost Proxy Model shows that switch costs declined approximately ten percent per year relative to inflation from 1989 to 1996.[61] AT&T demonstrates, using an imputed X-methodology similar to one previously proposed by the Commission, that, for 1995-2000, an imputed X of 9.63% (applied only to traffic-sensitive (TS) prices) is necessary to bring TS revenue, excluding special access, to the same levels as under rate-of-return regulation for year 2000.[62] Sprint recognizes these same economics by proposing a lower X-factor than AT&T, but applicable to all prices, not just TS prices, and then targeting the X-factor reductions to traffic sensitive rates.[63]

Indeed, AT&T demonstrates that TS revenue per minute, excluding special access, for the NECA pool declined 35% from 1995-2000.[64] It would be inexplicable, arbitrary and capricious to adopt an incentive plan that somehow reversed these declines in average traffic sensitive prices.

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59 *MAG Order & FNPRM*, at ¶218; GCI Comments at 5; AT&T Comments at 8.
60 AT&T Comments, Appendix A, Table 3 ("Excess Revenue").
61 GCI Comments at 10.
62 AT&T Comments at 10.
63 Sprint Comments at 3.

ILEC attempts to obscure these economic realities with rhetorical flourishes should be disregarded. The ILEC assertion that "legal and regulatory barriers to competitive entry have fallen" does not justify ignoring the significant productivity gains that occur with respect to traffic sensitive, switched access when setting rates for monopoly services.[65] First, the ILECs' assertion is patently untrue in many areas. As previously discussed, Section 251(f) exempts rural telephone companies from all of Sections 251(c) and 252 critical market-opening requirements, including arbitration of interconnection agreements, until the state commission lifts the rural exemption. By itself, this is a *de jure* barrier to competition that prevents markets from being "irrevocably open nationwide."[66]

Second, it must be remembered that the reason these prices are being regulated in the first place is that these ILECs have significant market power with respect to these access services. As discussed previously, the Commission found in the *CLEC Access Charge Order* that once the end user selects the local access provider, the interconnecting long distance carrier has only one, monopoly source of origination and termination.[67] Competition in services other than interstate access is, at that point, irrelevant.

In addition, the Commission's understandable desire to promote broadband deployment is not a justification for permitting ILECs to abuse their market power and overcharge for traffic-sensitive switched access.[68] Indeed, doing so would violate Section 254(k), which prohibits a telecommunications carrier from using "services that are not competitive to subsidize services

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64 *See* AT&T Comments, Appendix A, Table 2 ("Rev Requirement per minute" shows a drop in TS revenue requirement (excluding special access) per minute from 6.94 cents/minute in 1995 to 4.5 cents/minute in 2000.

65 Comments of Alltel *et al.* at 13.

66 *Id*.

67 *See* Section I.A, *supra*.

68 Comments of Alltel *et al.* at 42.

that are subject to competition."[69] While the degree of competition in the DSL market is open to question—particularly in small business as well as medium to large business markets—interstate switched access services, particularly local switching and common transport, are subject to no competition whatsoever once the end user selects its local telephone company. Moreover, if the Commission wants to establish a mechanism to subsidize rural DSL deployment, it must do so through explicit subsidies pursuant to Section 254(a), (c) and (e), and it cannot do so by creating an incentive regulation slush fund.[70]

Finally, ILEC threats of disinvestment are not sufficient reason simply to award all efficiencies to the ILEC and not to pass some of those efficiencies on to access purchasers.[71] The best cure for disinvestment incentives is in fact to reduce barriers to entry in rural areas. This would include states returning to the strict construction of Section 251(f) and lifting the rural exemption once there is a bona fide request, enforcing Section 253's prohibition on state and local barriers to entry that are not competitive neutral and consistent with the *explicit* universal service support mechanisms provided for under Section 254, and continuing to eliminate federal and state implicit subsidies for local exchange and exchange access (including subsidies implemented through toll rate averaging and integration). Competition, which companies like GCI will bring to rural areas provided that the existing barriers are removed, can discipline fears of disinvestment without simply waiving the white flag of surrender and granting the ILEC monopolists the ability to price switched access far above cost.

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69 47 U.S.C. § 254(k).

70 *See COMSAT*, 250 F.3d at 939 (holding that the FCC may not permit nor maintain implicit subsidies).

71 Comments of Alltel *et al.* at 41; GVNW Comments at 4-5.

B. Incentive Regulation Should Be Mandatory for Holding Companies of More than 50,000 Lines

Many, but not all, ILECs argue that incentive regulation must be optional for all carriers because of the large number and diversity of rate-of-return carriers. While GCI agrees that it is unrealistic to try to create a single incentive regulation plan for all rate-of-return carriers, and that some carriers should, if only as a matter of administrative economy, be permitted to remain under rate-of-return regulation,[72] it does not follow that *all* carriers must be given optionality. Indeed, doing so commits the fallacy of "one-size-fits-all" in reverse.

Although ILEC comments point out that there are many small companies that may have a hard time generating productivity increases,[73] they ignore the fact that the vast majority of rate-of-return regulated lines are served by a relatively few carriers. Indeed, according to FCC statistics, nearly half of all rate-of-return regulated lines are served by 6 holding companies with more than 200,000 lines.[74] There are only 13 holding companies with more than 100,000 lines, the threshold for mandatory incentive regulation suggested by the Nebraska Rural Independent Companies.[75] Even at a 50,000-line threshold, as suggested by AT&T, there are only 24 holding companies nationwide that would come under mandatory incentive regulation, and these 23 holding companies collectively serve over 62% of rate-of-return regulated lines.[76]

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72 GCI Comments at 8.

73 *See* NTCA Comments at 2-3; NRTA/OPASTCO/USTA Comments at 6-7; Western Alliance Comments at 6-7.

74 This includes Puerto Rico Telephone Company, even though it is owned by Verizon, a price-cap holding company.

75 Nebraska Rural Independents Comments at 3. The 13 holding companies with greater than 100,000 lines includes the six holding companies with greater than 200,000 lines.

76 *See* Appendix A.

Making incentive regulation optional for carriers with less than 50,000 lines would address the concerns raised by NTCA and other commenters representing the myriad of smaller ROR ILECs. Simply put, they would get what they have asked for: a choice between rate-of-return or incentive regulation.

Moreover, the basic decision to make incentive regulation mandatory for all holding companies of greater than 50,000 lines does not require use of a uniform X-factor, for example, for all such holding companies. If larger holding companies can achieve a higher X, and smaller holding companies have more limited potential efficiencies, then a rational system can take those differences into account. It is important to recognize, also, that this is a manageable project when there are only two dozen companies that are affected, rather than 1300.

III. CONCLUSION

GCI continues to support the Commission's efforts to design an incentive regulation plan for rate-of-return LECs that is fair to LECs, their access customers, and end users. This can only happen if the plan apportions efficiency gains fairly, guards against anticompetitive behavior by ILECs, and ensures that pricing flexibility does not precede actual competition.

Respectfully submitted,

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Appendix A

Telephone Loops of Incumbent Local Exchange Carriers by Holding Company 1/
(As of December 31, 1999)

Holding Companies	Loops	Percent of ROR Loops	Cumulative %
ALLTEL Corporation	2,271,645	18.31%	18.31%
Puerto Rico Telephone Co.	1,294,704	10.43%	28.74%
CenturyTel, Inc.	1,264,311	10.19%	38.93%
TDS Telecommunications Corporation	588,355	4.74%	43.67%
Alaska Communications Systems Holding, Inc.	329,876	2.66%	46.32%
C-TEC Corporation	297,405	2.40%	48.72%
Madison River Telephone Company	148,614	1.20%	49.92%
MJD Communications	140,031	1.13%	51.05%
North State Telephone Company	133,533	1.08%	52.12%
Rock Hill Telephone Company	123,806	1.00%	53.12%
Roseville Telephone Company	123,520	1.00%	54.12%
The Concord Telephone Company	118,218	0.95%	55.07%
TXU Communications	117,268	0.94%	56.01%
Consolidated Communications, Inc.	88,953	0.72%	56.73%
Horry Telephone Cooperative, Inc.	86,423	0.70%	57.43%
Conestoga Enterprises, Inc.	80,169	0.65%	58.07%
North Pittsburgh Telephone Company	79,042	0.64%	58.71%
Guam Telephone Authority	77,609	0.63%	59.34%
Hargray Communications Group, Inc.	67,645	0.55%	59.88%
Virgin Islands Telephone Corporation	67,229	0.54%	60.42%
Denver & Ephrata Telephone Company	59,395	0.48%	60.90%
Farmers Telephone Cooperative, Inc.	57,255	0.46%	61.36%
Matanuska Telephone Association	56,575	0.46%	61.82%
Pioneer	50,282	0.41%	62.22%
GTC, Inc.	49,710	0.40%	62.62%
Chorus Communications Group	43,543	0.35%	62.97%
Fort Bend Communication Company	41,677	0.34%	63.31%
Mankato Citizens Telephone Company	40,573	0.33%	63.64%
Lynch Telephone Corporation	40,437	0.33%	63.96%
Coastal Utilities, Inc.	39,332	0.32%	64.28%
East Ascension Telephone Company, Inc.	39,289	0.32%	64.60%
CFW Communication Companies	38,342	0.31%	64.91%
Atlantic Telephone Membership Corporation	38,083	0.31%	65.21%
Twin Lake Telephone Cooperative	36,574	0.29%	65.51%
SRT Service Corporation	35,985	0.29%	65.80%
Ben Lomand Rural Telephone Cooperative, Inc.	35,813	0.29%	66.09%
The Chilliclothe Telephone Company	35,566	0.29%	66.37%
Golden West Telecommunications	35,384	0.29%	66.66%
Telephone Electronics Corporation	35,102	0.28%	66.94%
Lexington Communications, Inc.	34,739	0.28%	67.22%
Guadalupe Valley Telephone Cooperative	34,713	0.28%	67.50%
Skyline Telephone Membership Corporation	34,663	0.28%	67.78%
Great Plains Communication, Inc.	34,478	0.28%	68.06%
Smithville Telephone Company, Inc	33,333	0.27%	68.33%
Wood County Telephone Company	30,921	0.25%	68.58%
Yadkin Valley Telephone	30,785	0.25%	68.82%
Eastex Telephone Cooperative, Inc.	30,748	0.25%	69.07%
Ollig Utilities	28,233	0.23%	69.30%
Brandenburg Telephone Company	27,652	0.22%	69.52%
South Central Rural Telephone Cooperative	27,596	0.22%	69.74%
Millington Telephone Company, Inc.	26,336	0.21%	69.96%
Kerrville Telephone Company	25,645	0.21%	70.16%
Grand River Mutual Telephone Corporation	25,520	0.21%	70.37%
All Other Companies	3,677,277	29.63%	100.00%
Total	12,409,912	100.00%	

1/ Includes incumbent local exchange carrier's loops for holding companies with more than 25,000 loops.

2/ Includes Bell Atlantic Corporation and GTE Corporation.

Source: Industry Analysis Division, Common Carrier Bureau, Trends in Telephone Service, Table 8.3 (Aug. 2001).