

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

In the Matter of)	
)	
)	
Notice of Inquiry Concerning a Review of the)	CC Docket No. 02-39
Equal Access and Nondiscrimination Obligations)	
Applicable to Local Exchange Carriers)	
)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
REPLY COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ hereby files its reply comments in the above-captioned proceeding.²

In its initial comments, NTCA pointed out the fact that wireless carriers are not required and do not offer equal access. As a result, they have a distinct competitive advantage in that they can compete directly against rural incumbent local exchange carriers (ILECs) without incurring the additional cost of providing equal access. This regulatory disparity is inconsistent with the Commission’s goal of minimizing disparities so that “no entity receives an unfair competitive advantage”³ and contrary to establishing “a modern equal access and nondiscriminatory

¹ NTCA is a non-profit corporation established in 1954 and represents 545 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 Notice of Inquiry Concerning the Review of the Equal Access and Nondiscrimination Obligations Applicable to Local Exchange Carriers*, CC Docket No. 02-39, FCC 02-57 (rel. February 28, 2002)(NOI).

³ *Federal-State Joint Board on Universal Service*, First Report and Order, 12 FCC Rcd 8776, 8802 (1997).

regulatory regime that will benefit consumers.”⁴ Nothing in the initial comments filed by other parties has rebutted this fact.

NTCA also identified that the Commission’s current Interstate Common Line Support (ICLS) rules ignore a competitive eligible telecommunications carrier’s (CETC’s) costs.⁵ As NTCA stated in its petition for reconsideration,⁶ ICLS has no relationship to the costs of CETCs that are not rate-of-return regulated and the Commission cannot determine whether they will receive support in excess of their total per line costs. The Commission’s uneven equal access regulations and the impending distribution of the identical support under the ICLS rules will only continue to further aggravate the regulatory disparity between rural ILECs and wireless CETCs.

To correct this disparity, NTCA recommended that the Commission should suspend application of the identical support provisions in the ICLS rules until it completes its review of the equal access requirements and its definition of competitive neutrality. The suspension of the ICLS identical support provisions will allow the Commission time to assess the overall effect of any changes to the equal access requirements on universal service support and its ability to comply with Section 254(e)⁷ before implementing the ICLS rules. NTCA firmly believes that suspending the rules now rather than later will prevent the harm and waste that will occur if the identical support provisions in the ICLS rules become effective on July 1, 2002.

On reply, NTCA recommends that the Commission withhold its judgment on equal access in this proceeding, until the Federal-State Joint Board on Universal Service has made its

4 NOI, ¶ 2.

5 47 C.F.R. 54.307(a)(1).

6 NTCA Petition for Reconsideration, CC Docket 00-256, pages 3-5 and 7-9.

7 Section 254(e) requires a carrier that receives universal service support to use that support for the “provision, maintenance, and upgrading of facilities and services for which the support is intended.”

recommendation on the issue of whether to add equal access to the services listed in the definition of universal service.

The Commission seeks to determine whether it should change or eliminate any existing equal access requirements that apply to ILECs in light of the new competitive paradigm contemplated by the Act. The issue of adding equal access to the list of supported services eligible for universal service support, however, is currently being considered in the Joint Board's review of the definition of universal service.⁸ In the near future, the Joint Board will complete its review and make recommendations to modify the definition of universal service, if warranted.

Given that these two proceedings are considering the same issue, albeit in different contexts, the Commission should allow the Joint Board to make its recommendations in the redefinition proceeding before the Commission makes a decision in this proceeding.

NTCA also recommends that the Commission forward the initial and reply comments in this proceeding to the Joint Board. This will allow the Joint Board to become fully aware of all the issues raised concerning equal access so that it may make a more informed recommendation concerning the issue of adding equal access to the list of supported services. Once the Joint Board has made its recommendation, the Commission can then review it and use it to help decide the issues in this proceeding. By allowing the Joint Board to make its recommendation, the Commission can also avoid the possibility of modifying equal access regulations prematurely and later needing to change the regulations based on the Joint Board's recommendation. The issues in this proceeding and the Joint Board's proceeding are interrelated and should be

⁸ *In the Matter of Federal-State Joint Board on Universal Service Seeks Comment on the Definition of Universal Service*, Public Notice, CC Docket 96-45, FCC 01-J-01 (August 21, 2001)(*Universal Service Redefinition Proceeding*).

considered in an orderly manner. Providing the Joint Board the record in this proceeding before it makes its recommendation on the definition of universal service will ensure that the Commission has the benefit of the Joint Board's opinion on equal access prior to deciding the future of equal access in this or any other proceeding.

Respectively submitted,

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June 10, 2002

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in CC Docket No. 02-39, FCC 02-57 was served on this 10th day of June 2002 by first-class, U.S. Mail, postage prepaid, to the following persons.

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