NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
The Voice of Rural Telecommunications
www.ntca.org

June 13, 2002

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, D.C. 20554

Re: NTCA's Petition for Reconsideration of the Concerning the 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

Dear Commissioner Copps:

NTCA has filed a petition for reconsideration asking that the Commission suspend the identical support rule, 47 C.F.R § 54.307(a)(1) before it becomes effective on July 1, 2002.[1] We urge you to act on the petition in time to prevent the harm that will occur if the petition is not granted before July 1.

Interstate common line support (ICLS) was created in the rate of return (ROR) access reform proceeding. It is intended to replace the carrier common line charge, which recovers ROR carrier common line revenue requirements. These legitimately incurred costs are attributable to the provision of loops and other non-traffic sensitive facilities. The "identical support" rule permits carriers that have neither loops nor common line costs to receive the same per line ICLS support that ROR carriers receive for each of their loop counts. The Commission will not be able to ensure that carriers with no common line costs or different costs are using the support for the purpose intended. The "identical support" rule therefore necessarily frustrates Section 254(e) of the Communications Act. Carriers that do not have common line costs are obviously unable to use a mechanism intended to recover residual common line revenue requirements for the purposes intended.

The need to suspend operation of the "identical support" rule is enhanced by the operation of other Commission rules that will apply when ICLS goes into effect. These rules are already resulting in chaotic implementation of federal high cost support mechanisms. For example, existing Commission rules provide for high cost support for "captured" or "new" subscriber lines served by competitors. 47 C.FR. §54.307(a). Because the Commission has yet to define "capture" or explain what lines are "new,"

[1] NTCA's Petition for Reconsideration of the MAG order, CC Docket No. 00-256 (filed Dec. 31, 2001).

NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
4121 Wilson Boulevard • Tenth Floor • Arlington, Virginia 22203
Phone/703.351.2000 • Fax/703.351.2001 • www.ntca.org

competitive eligible telecommunications carriers (CETCs) can report any and all loops they serve and support can be provided to multiple carriers serving the same customer. Neither Congress nor the Commission ever envisioned distributing identical support to multiple carriers serving the same customer. In fact, the Commission intended that a CETC "shall receive universal service support to the extent that it captures subscribers *formerly served by carriers receiving support* based on the modified existing support mechanisms or *adds new customers* in the ILEC's study area." [Emphasis added]. *In the Matter of the Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, FCC 97-157, First Report and Order, ¶ 311 (rel. May 8, 1997).

On February 11, 1999, the Universal Service Administrative Company sent a letter to the Commission seeking clarification of the phrase in rule 47 C.F.R. § 54.307(a) "captures an incumbent local exchange carrier's (ILEC) subscriber lines" in the calculation of support for a CETC. In the letter, USAC specifically asked the Commission: "Does the term 'capture' mean only instances where the subscriber abandoned the ILEC's service for the CETC, or does it include instances where the subscriber adds service from the CETC in addition to the ILEC service (e.g., a second wireline service or wireless service)?" To our knowledge the Commission has yet to respond or clarify the word "capture."[2]

A related issue is included in rules providing that mobile wireless carriers may use customer "billing addresses" to identify the service location of their mobile customer. 47 C.FR. §54.307(b).[3] This flawed rule allows mobile wireless providers to receive the per line support of the incumbent for any wireless customer who chooses a billing address in a high cost area. The linking of support to the billing address is irrational because there is no necessary relationship between the wireless subscriber billing address of choice and the service the customer uses. In addition, the rule creates innumerable opportunities for gaming and manipulation of support.

The Commission has pending requests to clarify these rules but it has not acted. In the interim, reported CETC lines continue to grow at a pace that cries for a resolution of these issues. For example, in some service area zones, wireless CETC lines exceed the number of lines served by the incumbent and in certain very high cost zones, wireless carriers are seeking support far in excess of the support received by the incumbent. Attachment A to this letter identifies 11 such zones in Washington State. Further, the May 2, 2002 Universal Service Administrative Company filing shows that the annualized

---

[2] See, letter sent to Irene Flannery, Chief, Accounting Policy Division, Federal Communications Commission from Robert Haga, Secretary & Treasurer, Universal Service Administrative Company (Feb. 11, 1999).

[3] NTCA's Comments filed in CC Docket 96-45, FCC 00J-3, pp. 11-12 (Nov. 3, 2000).

projected high cost support to CETCs has grown from $4.6 million to $76.4 million between the first quarter of 2001 and third quarter, 2002. (Attachment B).

NTCA is very concerned that the July 1 implementation of the "identical support" rule combined with these circumstances will undermine the goals of universal service and result in other unintended consequences. NTCA urges the Commission to suspend operation of 47 C.F.R § 54.307(a)(1) now to prevent the escalation of the gaming made possible by these rules. The Commission should not wait to act until it conducts a more general inquiry or proceeding into "portability." The potential for windfalls and gaming should be addressed before harm occurs, not after when it may be too late to repair the harm.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
COOPERATIVE ASSOCIATION

By: /s/L. Marie Guillory
L. Marie Guillory

By: /s/Daniel Mitchell
Daniel Mitchell

Its Attorneys

4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203
(703) 351-2000

Enclosures: Attachment A.xls
Attachment B.xls