

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

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In the Matter of)	
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Inquiry Concerning High-Speed Access to the)	GN Docket No. 00-185
Internet Over Cable and Other Facilities)	
)	
Internet Over Cable Declaratory Ruling)	
)	
Appropriate Regulatory Treatment of Broadband)	CS Docket No. 02-52
Access to the Internet Over Cable Facilities)	
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**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ hereby files its initial comments in the above-captioned proceeding.² NTCA urges the Federal Communications Commission (Commission or FCC) to establish regulatory parity between cable, satellite, wireless, and wireline providers of high-speed access to the Internet. The classification of services under Title I should not result in rules that allow one type of provider or technology to have an unfair competitive advantage over another type of provider or technology. Title I should also not excuse cable providers from contributing to the universal service fund given the fact they benefit directly from their interconnection to the Public Switched Network (PSN) and

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 Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling; Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities, Declaratory Ruling and Notice of Proposed Rulemaking, GN Docket No. 00-185, CS Docket NTCA June 17, 2002* GN Docket No. 00-185 and CS Docket No. 02-52, FCC 02-77

compete directly against wireline incumbent local exchange carriers (ILECs) in the provision of high-speed Internet access service.

I. INTRODUCTION

On March 15, 2002, the Commission released a declaratory ruling and notice of proposed rulemaking (NPRM) concerning cable modem high-speed access to the Internet. In the declaratory ruling, the Commission determined that cable modem broadband Internet access service is not a “cable service” and does not contain a separate “telecommunications service,” but is an interstate “information service” as defined by the Act.³ In the NPRM, the Commission seeks to address the regulatory implications of its determination. Specifically, the Commission seeks comment on whether common carrier regulation is necessary to ensure that charges, practices, classification or regulations in connection with cable modem service are just and reasonable and not unjustly or unreasonably discriminatory.⁴

II. REGULATORY PARITY REQUIRES THAT CABLE HIGH-SPEED INTERNET ACCESS PROVIDERS CONTRIBUTE TO THE USF

Cable, wireless and satellite communications companies are currently using their platforms to provide broadband Internet access service in direct competition with wireline broadband access service. None of these non-ILEC broadband access providers, however, have the same universal service obligations as their wireline ILEC competitors. Contribution policies and rules therefore must change in order to eliminate the distinct competitive advantage these

No. 02-52, FCC 02-77, (rel. March 15, 2002)(Declaratory Ruling and NPRM).

³ *Information service* is the offering of a capability of generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications. *Telecommunications service* is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of facilities used. *Telecommunications* is the transmission, between and among points specified by the user, of information of the user’s choosing, without change in form or content of the information as sent and received.

companies have over contributing wireline ILECs, as well as the drain they impose on the interstate revenue Universal Service Fund (USF) assessment base.⁵

Under the Commission's existing contribution rules, telecommunications carriers providing "telecommunications services," including broadband transmission services, are required to make USF contributions to the extent they provide broadband transmission services or other telecommunications services on a stand alone basis to affiliated or non-affiliated Internet service providers (ISPs) or end-users.⁶ These rules, however, do not apply to cable, wireless, and satellite providers of broadband transmission services or broadband Internet access.⁷ The Commission is tentatively proposing to redefine certain wireline ILEC broadband services as "telecommunications" and place these services on a regulatory parity basis with "cable modem" services.

To achieve regulatory parity, all facilities-based broadband providers should be treated alike. As technology changes, the consumer will be unable to distinguish the services and features of one type of provider from those of another. Different facilities and technologies are emerging as substitutes for traditional circuit switched telecommunications services and broadband Internet access services. Interstate traffic is migrating to these facilities and the carriers that operate them benefit from the nation-wide network made possible by universal service. Requiring only wireline ILECs to contribute to the universal service fund places these

4 NPRM ¶ 95.

5 *First Report and Order*, CC Docket 96-45, 12 FCC Rcd 9183-9184, ¶795.

6 *In the Matter of Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities*, CC Docket No. 02-33, *Universal Service Obligations of Broadband Providers*, and *Computer III Further Remand Proceeding: Bell Operating Company Provision of Enhances Services: 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements*, CC Dockets Nos. 95-20, 98-10, FCC 02-42, Notice of Proposed Rulemaking (NPRM) ¶¶ 71 and 72 (rel. Feb. 15, 2002).

7 *Id.* ¶ 79.

carriers at a distinct competitive disadvantage. To the extent that the Commission is concerned about regulatory parity and the sustainability of an adequate revenue base for its interstate USF mechanisms, it should require all providers of broadband transmission or other telecommunications services on a stand alone basis to affiliated or non-affiliated ISPs or end-users to contribute on an equitable and non-discriminatory basis.⁸

If the Commission adopts the tentative conclusion that wireline broadband Internet access offered on an integrated basis is an “information service,” it should use its permissive authority to assess the telecommunications component of this service. Cable, wireless, and satellite providers, who provide information service, should also be assessed. Carriers that benefit from universal service should not escape the obligation of support just because they bundle services or escape designation as “telecommunications carriers.”

The technology that consumers want and expect to have access to is changing. As Congress anticipated, the current definition of universal service must evolve to keep pace with the consumer need. Universal service support ensures comparable and affordable services throughout the nation. Cable, wireless and satellite providers of broadband Internet access will benefit from the nationwide network made possible by universal service. They should therefore be required to contribute to the USF mechanism. Expanding the list of contributors to the universal service fund is critical to the continued success of universal service and ensuring regulatory parity among all providers of high-speed access to the Internet.

IV. CONCLUSION

The Commission should require all cable, satellite, and wireless broadband Internet

8 47 U.S.C. §254(d).

access providers to contribute to the federal universal service fund. Failing to position these carriers on equal footing with existing contributors will continue to place existing wireline ILECs at a distinct competitive disadvantage in the high-speed Internet access services market and further drain revenues from the existing USF assessment base.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in GN Docket No. 00-185, CS Docket No. 02-52, FCC 02-77 was served on this 17th day of June 2002 by first-class, U.S. Mail, postage prepaid, to the following persons.

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