

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Review of the Section 251 Unbundling	)	CC Docket No. 01-338
Obligations of Incumbent Local Exchange	)	
Carriers	)	
	)	
Implementation of the Local Competition	)	
Provisions of the Telecommunications Act	)	CC Docket No. 96-98
Of 1996	)	
	)	
Deployment of Wireline Services Offering	)	CC Docket No. 98-147
Advanced Telecommunications Capability	)	
	)	

**REPLY COMMENTS  
OF THE  
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA) submits these reply comments in response to the Commission’s Notice of Proposed Rulemaking in the above captioned docket.

**I. INTRODUCTION**

As pointed out in NTCA’s initial comments, rural telephone companies are exempt from the unbundling requirements of Section 251, unless a State Commission determines otherwise. Therefore, many NTCA member companies are seemingly initially unaffected by the Commission’s decisions in this proceeding. However, the path the Commission chooses in this proceeding and its companion proceedings could ultimately determine the viability of rural telephone companies. NTCA reiterates its plea that the Commission not make any sweeping regulatory changes without specifically considering how they will affect rural telephone companies and the customers they serve.

Some commenters request that they be permitted to convert special access into UNEs or combinations of UNEs. However, special access is an integral part of the small carriers' interstate access rate structure and the removal of existing restrictions could upset the delicate balance achieved in the Commission's recent rate of return carrier access charge reform order and result in decreased service and higher rates for subscribers.

## **II. REGULATORY CHANGES MUST BE EXAMINED FROM A RURAL PERSPECTIVE**

The Telecommunications Act of 1996 sought to accomplish several, often competing, objectives. While promoting competitive opportunities was certainly a primary purpose of the Act, so was advanced services deployment and ensuring that all Americans have access to comparable telecommunications.

The vast majority of commenters focus their arguments on competition. Some argue that competition cannot be achieved without access to UNEs, others argue that providers are able to enter the market and compete without access to UNEs. Competition is not a primary issue in rural areas since many rural areas cannot sustain meaningful competition. High costs and sparse populations make it uneconomical for several carriers to serve the same rural territory.

Rules designed to promote competition in urban areas may ultimately harm rural consumers if applied to rural carriers. Therefore, the Commission must examine regulatory changes as they specifically affect rural telephone companies. NTCA believes that changes to the current regulatory structure should occur only if correctable deficiencies are found. Competition and the removal of regulatory constraints may encourage investment in urban areas, but in rural areas, deployment of advanced services

and broadband is occurring under the rate-of-return regulatory regime. The stability provided by the current regulatory structure has served areas served by NTCA members well and should continue.

### **III. SPECIAL ACCESS SHOULD NOT BE CONVERTED INTO UNEs**

Some commenters argue that the Commission should permit carriers to convert existing special access arrangements into UNEs or unbundled loop/transport combinations.<sup>1</sup> They argue that the cost of engineering and constructing loop and transport facilities limits the CLECs' ability to self-deploy. However, special access is an integral part of the small carriers' rate structure and the removal of existing restrictions could upset the delicate balance achieved in the Commission's recent rate of return carrier access charge reform order, and irreparably harm rural carriers and their subscribers.

Less than a year ago, the Commission released its order reforming the access charge regime for rate of return carriers.<sup>2</sup> The MAG Order was the culmination of years of work on the part of both the industry and the Commission. It balanced the competing needs of the relevant players and attempted to provide certainty and stability for rate-of-return carriers, encourage investment in rural America, and provide important consumer

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<sup>1</sup> See, e.g., comments of WorldCom, Inc., Competitive Telecommunications Association (CompTel), and AT&T, Corp.

<sup>2</sup> In the Matter of the Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket 00-256; Federal-State Joint Board on Universal AT&T, Corp. Service, Fifteenth Report and Order, CC Docket No. 96-45; Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, Report and Order, CC Docket No. 98-77, Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, Report and Order, CC Docket No. 98-166 (Rel. Nov. 8, 2001) (MAG Order).

benefits.<sup>3</sup> It was assumed, by the Commission and the industry, that special access would continue.<sup>4</sup>

The loss of special access revenue would shift cost recovery from interstate access customers to state and local ratepayers and could effectively undermine the entire MAG Order.<sup>5</sup> The revenue drain on carriers that lose the rural exemption would lead to uncertainty and instability in rural markets. It would force small carriers to forego upgrading their services, and cause end-user rates to skyrocket. The rural consumer would ultimately pay the price of the ILEC's decreased revenue, with no counterbalancing benefit of increased competition.

Further, the reform of existing accounting, separations, universal service and intercarrier compensation rules continues. Until such time as these important and interrelated issues (especially intercarrier compensation) are decided, the restrictions on the conversion of special access into UNEs are necessary to preserve the *status quo*.<sup>6</sup>

#### **IV. CONCLUSION**

The Commission's decisions in this proceeding and its companion broadband rulemakings will decide the future of telecommunications in this country. It is imperative that the Commission consider each issue in the specific context of how it will affect rural telephone companies and the customers they serve.

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<sup>3</sup> MAG Order, ¶ 3.

<sup>4</sup> MAG Order, ¶ 119.

<sup>5</sup> Verizon claims that the shift would place several billion dollars in ILEC revenues at risk nationwide. Verizon comments, p. 139.

<sup>6</sup> See Comments of The National Exchange Carrier Association, Inc. (NECA), National Rural Telecom Association, National Telephone Cooperative Association, and Organization for the Promotion and Advancement of Small Telecommunications Companies, In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No 96-98, FCC 99-238 (filed Jan. 19, 2000).

Some argue that the Commission should permit special access to be converted into unbundled network elements. This is one change to the regulatory regime that would irreparably harm rural carriers. It would upset the delicate balance achieved in the recent access charge reform order and there are too many unresolved interrelated issues for the Commission to effectively decide the issue at this time.

Respectfully submitted,

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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. 01-338, CC Docket No. 96-98, CC Docket No. 98-147, FCC 01-361 was served on this 17<sup>th</sup> day of July 2002 by first-class, U.S. Mail, postage prepaid, to the following persons.

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