

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

In the Matter of)	
)	
Verizon Petition for Emergency Declaratory)	WC Docket No. 02-202
And Other Relief)	
)	

COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

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COOPERATIVE ASSOCIATION

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August 15, 2002

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The National Telecommunications Cooperative Association (NTCA) hereby submits its comments in the above-captioned matter. NTCA supports Verizon’s plea that the Commission provide the industry with “clear guidelines” that will allow carriers to protect their ability to obtain payment for services they render to other companies. The Commission should permit carriers to revise their tariffs to ensure against nonpayment for service. The Commission should likewise support the efforts of incumbent local exchange carriers in the bankruptcy courts to obtain assurance of payment for service to customers in bankruptcy.

I. INTRODUCTION

NTCA is a national association made up of more than 500 small, independent telephone companies. All of NTCA’s members are “rural telephone companies” as that term is defined in the Communications Act (the Act), 47 U.S.C. §153(37).

NTCA’s members are vulnerable in this turbulent time in the telecommunications industry. Small and rural incumbent LECs rely on access payments made by

interexchange carriers for their survival and are now owed millions of dollars from bankrupt carriers.

A few years ago no one would have predicted that the likes of Global Crossing and WorldCom would be in the middle of bankruptcy proceedings. The future of other telecommunications giants remains uncertain. Rural carriers must be able to protect their interests and get paid for services rendered so that they may continue to provide high quality service to their subscribers. It is imperative that the rural carriers receive commitments from the FCC that their needs will be addressed on a going-forward basis.

II. THE COMMISSION SHOULD PERMIT RURAL CARRIERS TO REVISE THEIR TARIFFS TO PROTECT THEMSELVES AGAINST NONPAYMENT

The Commission should take steps to allow rural carriers to protect themselves against future bankruptcies. Carriers should be permitted to revise their tariff provisions governing deposit requirements.¹

While only a few carriers have declared bankruptcy to date, the ramifications are far-reaching and more carrier bankruptcies are predicted. If they occur, these additional bankruptcies could jeopardize the stability of rural carriers and the industry as a whole. Rural carriers have an obligation to provide service to other carriers, despite the other carriers' financial difficulties. Rural carriers incur costs directly attributed to serving these other carriers and they need reasonable assurance that they will get paid. Safeguards such as advance payments and security deposits will help to protect rural carriers and limit the financial impact of further carrier bankruptcies.

NTCA agrees with Verizon that the Commission should approve tariff revisions with "maximum expedition."² Every day that passes carries the risk that another carrier

will declare bankruptcy and the rural incumbent LEC industry faces the possibility of losing tens of millions of dollars. The tariff revisions would help to limit the financial wreckage on a going-forward basis.

It is also important for the Commission to recognize that advance payments and security deposits may not be sufficient in all instances. There will be a certain amount of debt that will remain uncollectible. Certain rural incumbent LECs may find their reserves for these uncollectibles insufficient. The Commission should declare that its policy is to permit carriers to recover the costs directly associated with the failure of another carrier. This broad policy is necessary to ensure that service to customers will not be compromised because of future carrier failures. The Commission should find that carriers are permitted to adjust their tariffs without administrative delay to reflect increasing uncollectibles, should the need arise.

III. THE COMMISSION SHOULD SUPPORT RURAL INCUMBENT LECs IN BANKRUPTCY PROCEEDINGS

The Commission should play a vital role in any bankruptcy proceeding involving a carrier, educating the court about the impact its decisions will have on the rest of the industry, including small, rural incumbent LECs. NTCA agrees with Verizon, that the Commission should “unequivocally support” the right of carriers to be compensated for the services they provide.³

The Commission should support small carrier’s requests for tariff revisions and for adequate assurance of post-petition payment. The Commission should also clarify that the Communications Act does not require treating carrier-to –carrier agreements as

¹ The National Exchange Carrier Association (NECA) and others have filed tariff revisions to expand incumbent LECs’ ability to require deposits from flailing carriers. *See* NECA Transmittal No. 940.

² Verizon Petition, p. 5.

anything other than executory contracts. Incumbent LECs are thus entitled to a cure of prior indebtedness from carriers assuming carrier-to-carrier contracts.

IV. CONCLUSION

Carrier bankruptcies have upset the balance in the telecommunications industry and it seems inevitable that more bankruptcies will follow. The Commission should take action to minimize the financial harm to the carriers that survive, especial the rural incumbent LECs. The Commission should permit carriers to revise their tariff provisions governing deposit requirements and approve those revisions expeditiously. This will help to protect carriers from the impact of future bankruptcies. The Commission should also take an active role in the bankruptcy proceedings and support the right of the surviving carriers to be compensated for their services.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
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³ Verizon Petition, p. 8.

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in WC Docket No. 02-202, DA 02-1859, was served on this 15th day of August 2002 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail C. Malloy

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