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September 30, 2002

Ex Parte

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, DC 20554

Re: CALLS Order Remand Proceeding
CC Docket Nos. 96-262, 94-1, 99-249 and 96-45

Dear Ms. Dortch:

The Maryland Office of People's Counsel (MOPC) and National Association of State Utility Consumer Advocates (NASUCA) respectfully submit the attached NASUCA Reply to the Sprint CALLS Presentation concerning the annual $650 million Interstate Access Support Mechanism under consideration in the CALLS Order Remand Proceeding.

Pursuant to FCC Rule 1.49(f), this Ex Parte filing is being filed electronically via the Electronic Comment Filing System for inclusion in the public record of the above-referenced proceedings pursuant to FCC Rule 1.1206(b)(2). Additionally, two copies are being submitted to your office for each of the above-referenced dockets.

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Thank you for your consideration of this matter. Should you have any questions concerning the issues presented in this filing, please do not hesitate to contact me at the above number or David Gabel on 617-243-3903.

Very truly yours,

Michael J. Travieso

Michael J. Travieso
People's Counsel

Attorney for National
Association of State Utility
Consumer Advocates
(NASUCA)

MJT:sd
Enclosure
cc Ted Burmeister, w/attachment
Bill Scher, w/attachment

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Re: NASUCA Reply to Sprint CALLS Presentation

NASUCA does not imply that the cost model is the basis for the price cap permitted revenue. Changing the price cap revenue entitlement is not part of the proceeding and NASUCA did not address this question. Rather the question addressed by NASUCA in the SLC cost proceeding was "should residential subscriber line charge increase?" Whether the residential SLC increases, stays the same or decreases has no bearing on the total level of price cap revenue. The price cap revenue was being recovered through a combination of the residential, single line business and multi-line business SLCs, the business PICC, the CCLC, the port charges, special access surcharge and universal service fund payments. NASUCA never argued that the combination of these rates and fund payments should not recover the price cap revenue entitlement. NASUCA merely argued that based on the forward-looking cost studies there is no evidence that would support an increase in the residential SLC. In fact, given that at least 70 percent of the residential customers pay SLCs greater than the forward-looking cost of service the overwhelming implication of the evidence is that the residential SLC should be reduced. However, NASUCA did not recommend that the reduction occur. Instead, NASUCA argued that the status quo of $5.00 residential SLC cap be maintained. At that cap, carriers could recover the price cap revenue entitlement using residential SLC and all the other rates and universal service fund support available to them.

Similarly, in the proceeding investigating the need for a $650 million support fund, NASUCA does not question the price cap revenue entitlement. Rather NASUCA questions the need to meet that requirement by increasing the size of the universal service fund. That fund should help carriers recover cost in high cost areas. The forward-looking model applied by NASUCA identified the high cost areas and the amount of additional funds needed by the carriers to maintain and advance universal service. Embedded costs in excess of forward-looking costs, sometimes referred to as legacy costs, are not and should not be recovered through the universal service fund. The Commission found that "the use of forward-looking economic cost will provide sufficient support for an efficient provider to provide the supported services for a particular geographic area."[1]

Applying this policy to the current docket implies that the Interstate Access Support mechanism should only compensate carriers when their forward-looking costs are in excess of the SLC revenues. This is the standard that NASUCA used to determine its proposed limit on the fund size. If recovery of the price cap revenue entitlement requires more than this amount, NASUCA never stated that the carriers should not be given the

[1] First Report and Order, CC Docket No. 96-45, paragraph 227.

opportunity to recover those amounts. Rather NASUCA argued that the additional funds should not be recovered through the universal service fund mechanism or the residential SLC. Carriers still have other rate elements that could be used to recover that amount and should be allowed to set the rates for those elements in a manner that would recover the allowed revenue.

With regard to the continuation of impermissible implicit subsidies, NASUCA showed that there were more subsidies flowing from the residential customers then to them. If the Commission had adopted the NASUCA position, the only impermissible subsidy flow that will continue is from suburban and urban residential customers to other customers and stockholders. The small amount of subsidy flow received by rural residential customers would be covered by the amount of universal service support provided to the carriers under the Interstate Access Support program. Thus, carriers would receive sufficient support to provide universal service to residential customers.

NASUCA did not ignore the cost of non-primary residential line. NASUCA evaluated all residential lines. What NASUCA ignored was the higher revenue received from the non-primary lines.[2] In so doing, it over-estimated that amount of universal service revenue needed by the carriers. It is true that NASUCA does not estimate the support required by multi-line business customers of the non-rural carriers. These amounts, however, are very small and would amount to approximately $5.7 million. For the rural carriers such as SPRINT, the support for multi-line business carriers is part of the NASUCA plan because NASUCA includes all of the current support received by those carriers in its estimate of required support. NASUCA did not separate out the support of multi-line business customers.

With regard to Next Generation Digital Loop Carrier, (NGDLC), NASUCA characterized the same portion of the feeder and carrier investment as traffic sensitive that the British and German government regulatory agencies have. This equipment is traffic sensitive because it is not dedicated to any one customer and is engineered based on busy-hour usage.[3] It is shared and a customer can receive a busy signal because of traffic arriving simultaneously at the NGDLC. Thus, traffic can limit the customer's ability to use the equipment. NASUCA also wishes to point out that SPRINT acknowledges that NGDLC is used with a 12-kft standard loop. That means that switching to this equipment

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[2] See, NASUCA Reply Comments, CC Docket No. 96-262, February 14, 2002, page 17, "Non-Primary Lines Pay A SLC That Is Greater Than $5 Per Month."

[3] Furthermore, as we pointed out in our Reply Comments, other LECs, such as Worldcom and Verizon, have argued in state TELRIC pricing proceedings about the degree of traffic concentration. Id. footnote 14. Other LECs have also contended that the loop is traffic sensitive. The CLEC Coalition in Massachusetts (Covad, Allegiance Telecom, El Paso, and Network Plus) proposed in a recent TELRIC proceeding that a 6:1 loop/port concentration ratio be used for IDLC lines. According to the Massachusetts Commission, "The CLEC Coalition states that traffic patterns of the customers served by IDLC determine the degree of concentration." Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided-Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts, D.T.E. 01-20, *Order of the Department of Telecommunications and Energy*, July 11, 2002, at 161.

requires a re-engineering of loop plant from the current 18-kft standard. Given that the 18-kft standard is necessary and sufficient for universal service, Sprint is hereby acknowledging that the NGDLC requires more expensive loop investment than is required for the provision of universal service. The shorter loops are required for advanced services and should not be recovered through SLC charges.

With regard to the elimination of the double building of feeder and distribution structures, we merely ask the Commission to ask itself this simple question: Have they ever seen two sets of telephone poles in the same street, one set marked "F" for feeder and carrying only feeder cables and the other set marked "D" for distribution and carrying only distribution cables? The answer to question is no. The models include two sets of poles and other structure investment because the modeling procedures are so complicated that the modelers chose to use a simplifying assumption that the feeder plant would be built separately from the distribution plant. While we sympathize with the modelers' problems and hard work, yet we do not believe that anyone, residential customers, multi-line business customers or contributors to the universal service fund should have to pay for this peculiar modeling assumption.

David Gabel, PhD
September 28, 2002

Respectfully submitted,

Michael J. Travieso
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Association of State Utility
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