

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements)	WC Docket No. 02-112
)	
2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules)	CC Docket No. 00-175
)	

**COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)¹ hereby submits its comments in response to the Commission's (Commission or FCC) Further Notice of Proposed Rulemaking, WC Docket No. 02-112, CC Docket No. 00-175 (Further Notice.) NTCA believes that its member companies do not possess significant market power in their service areas, and thus there is no need for the Commission to regulate these companies as dominant should the separate affiliate requirements and other safeguards established for facilities-based and reseller independent LECs be removed. NTCA believes that the separate affiliate requirements currently imposed upon rural facilities-based independent LEC providers should be eliminated. Alternative regulatory

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 555 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members also provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). And all of NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

approaches to NTCA member companies providing IXC services on an integrated basis are similarly unnecessary.

I. NTCA MEMBER COMPANIES PROVIDING IN-REGION, INTERSTATE AND INTERNATIONAL INTEREXCHANGE TELECOMMUNICATIONS SERVICES DO NOT POSSESS SIGNIFICANT MARKET POWER IN THEIR SERVICE AREAS.

All of NTCA's member companies are small carriers that are "rural telephone companies" as defined in the Telecommunications Act of 1996². While some offer local exchange service to as few as 44 lines and a small handful to 90,000 or more, nearly 50% of NTCA members serve between 1,000 and 5,000 lines. Population density in most member service areas is in the 1 to 5 customers per square mile range.

As a result of their small size, it is highly unlikely that NTCA member companies would be able to "unilaterally raise and sustain prices of in-region, interstate and international interexchange services above competitive levels in a particular relevant geographic market"³—the Commission's definition of "significant market power."

The FCC recently released statistics on market concentration in the long distance telecommunications industry⁴. The report showed that incumbent local exchange carriers—which make up NTCA's membership—account for less than 1% of total industry toll revenues⁵ in 2001, the most recent year for which data is available. In contrast, competitive local exchange carriers represented approximately 3% of total toll revenues in 2001, regional Bell operating companies approximately 5%, and long distance carriers just over 91%.

² 47 U.S.C. 153 §3.37.

³ *In the Matter of Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules*, Further Notice of Proposed Rulemaking, p. 13.

In addition, consumers of telecommunications services have access to far greater choices than ever before. New technological and pricing developments continue to occur at a torrid pace. Further, increased substitutability among and between competing services provides consumers with even more options. Together, this proliferation of options for the consumer further minimizes any chance of NTCA member companies exercising significant market power.

II. THERE IS NO NEED TO REGULATE NTCA MEMBER COMPANIES AS DOMINANT SHOULD THE COMMISSION REMOVE THE SEPARATE AFFILIATE REQUIREMENTS AND OTHER SAFEGUARDS ESTABLISHED FOR FACILITIES-BASED AND RESELLER INDEPENDENT LECs.

Virtually all NTCA member companies who provide in-region, interstate and international interexchange telecommunications services do so on a resale basis.

Relatively few offer facilities-based services.

As noted previously, NTCA members do not possess significant market power in their service areas. Consequently, classifying these carriers as dominant would not do anything to promote competition. To the contrary, it would impose upon these carriers additional regulatory requirements and associated costs, making it harder for them to effectively serve their customers. The customers would suffer, without any offsetting benefits.

Similarly, removing the separate affiliate requirements imposed upon rural facilities-based independent LECs would reduce their costs of providing service. Given these companies' lack of market power, the requirement provides consumers minimal benefit.

⁴ *Statistics of the Long Distance Telecommunications Industry*, Industry and Analysis Division, Wireline Competition Bureau, Federal Communications Commission, May 2003.

III. IT IS NOT NECESSARY TO APPLY ANY ALTERNATIVE REGULATORY APPROACHES TO NTCA MEMBER COMPANIES PROVIDING IXC SERVICES ON AN INTEGRATED BASIS.

Any additional regulations imposed upon those NTCA member companies providing IXC services on an integrated basis would impose additional costs upon these companies. Typically, the cost of providing service in these remote rural areas is already higher than in more populous areas, and the rural providers' business case is often tenuous at best. Imposing additional regulatory costs, without concrete evidence of the need for additional regulation, will make an already daunting task even more challenging.

⁵ *Id.*, p. 16.

IV. CONCLUSION

NTCA member companies are small providers of telecommunications services who do not possess significant market power in their service areas. Therefore, there is no need for the Commission to regulate these companies as dominant should the Commission remove independent LECs' separate affiliate requirements. Further, it is not necessary to apply alternative regulatory approaches to NTCA member companies providing IXC services on an integrated basis. In addition, NTCA believes that the separate affiliate requirements imposed upon rural facilities-based independent LEC providers should be removed.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
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CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in WC Docket No. 02-112, CC Docket No. 00-175, FCC 03-111 was served on this 30th day of June 2003 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail Malloy

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