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

REPLY COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The National Telecommunications Cooperative Association (NTCA)[1] hereby submits its Reply 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.) In its initial Comments, NTCA asserted its belief 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 further believes that the separate affiliate requirements currently imposed upon rural facilities-based independent LEC providers

[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.

should be eliminated. Alternative regulatory approaches to NTCA member companies providing IXC services on an integrated basis are similarly unnecessary.

A number of respondents concurred with NTCA[2]. Several made note of the fact that increasing competition in the local exchange market will continue to impede the ability of ILECs to discriminate against competitors. Wireless providers, for example, continue to proliferate in rural companies' service areas. New technologies, such as cable telephony, continue to gain in popularity. The number of end-user switched access lines provided by CLEC's continues to grow at a substantial rate.[3] As consumers' options continue to expand, the ILECs' ability to discriminate against competitors will continue to be diminished.

GVNW Consulting, in their comments, correctly points out that rural companies' ability to regulate prices are further constrained due to their participation in NECA pooling procedures.[4] Additionally, rural carriers are often impacted by toll averaging requirements[5] which allow IXCs to, in many cases, average the cost of their service in urban and rural areas, with the net result that they are often able to offer their services in rural areas at much lower rates than the incumbent LEC is able to match[6].

Requiring ILECs who possess neither the ability nor the desire to discriminate against competitors to comply with separate affiliate requirements harms their customers without providing them any real benefits. Freeing the ILECs of this requirement will free

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[2] *See*, for example, comments of The Coalition of Incumbent Independent Local Exchange Carriers, GVNW Consulting, Independent Telephone & Telecommunications Alliance, SBC Communications, Inc., and the United States Telecom Association.
[3] Comments of The Coalition of Incumbent Independent Local Exchange Carriers at 5-6.
[4] Comments of GVNW Consulting at 2.
[5] 47 U.S.C. §254(g).
[6] Comments of GVNW Consulting at 6.

valuable resources which can then be put to a better use—providing the ILECs' customers with high-quality, reasonably priced telecommunications services.

Further, as the Coalition of Incumbent Independent Local Exchange Carriers correctly points out, there already exist means through which the FCC could ensure that ILECs do not abuse their position: "The Commission….could rely on Section 208 complaint proceedings and its authority to impose fines and forfeitures to address any anti-competitive abuses that occurred."[7] And if this were not sufficient, and the abuses were to continue, "the Commission could re-impose the separate affiliate and related requirements or impose 'dominant carrier' regulation on wrongdoers"[8] on an as-needed basis.

[7] Comments of The Coalition of Incumbent Independent Local Exchange Carriers at 6-7.
[8] *Id*. at 7.

CONCLUSION

As 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. As Verizon succinctly stated, "The long distance market is vigorously competitive, and any such burdens are unnecessary, anticompetitive, and detrimental to customers."[9]

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
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CERTIFICATE OF SERVICE

[9] Comments of Verizon, at 1.

I, Gail Malloy, certify that a copy of the foregoing Reply 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 28th day of July 2003 by first-class, U.S. Mail, postage prepaid, to the following persons.

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