

KRASKIN, LESSE & COSSON, LLC
ATTORNEYS AT LAW
TELECOMMUNICATIONS MANAGEMENT CONSULTANTS

2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Telephone (202) 296-8890
Telecopier (202) 296-8893

FILED ELECTRONICALLY

November 14, 2003

Ms. Marlene H Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445-12th Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation
of the Rural Independent Competitive Alliance in
CC Docket No. 96-45, 02-78

Dear Ms. Dortch:

On November 13, 2003, David Cosson and I, along with Paul Schuetzler, Chairman of the Rural Independent Competitive Alliance ("RICA"), spoke via telephone with West Virginia Public Service Commission Consumer Advocate Division Director and Federal-State Joint Board ("FSJB") member Billy Jack Gregg to discuss concerns of RICA with respect to the universal service "portability" proceeding currently before the Commission.

We summarized points we have made in comments and reply comments, as well as at the FSJB Denver forum held last July. At root, RICA strongly believes that the support that any eligible telecommunications carrier ("ETC") receives should be based on the network costs of the carrier, or class of carrier, receiving support, rather than on the incumbent carrier's costs. While RICA members are advancing the goals set out in Sections 254 and 706 of the Telecommunications Act of 1996, the Commission's portability rules inhibit RICA members from receiving support for the legitimate costs of operating a network in high cost areas. RICA believes that the Joint Board could and should proceed to establish such a recipients' costs support paradigm without first determining precisely how to measure the costs of competitive ETCs ("CETCs") or classes of CETCs. Such a determination should be made in a subsequent proceeding. We indicated that RICA members would not object to reasonable cost study requirements resulting from such a change in the rules and that, should the Commission establish cost models (which we noted are inherently difficult to establish with respect to rural study areas), any CETC should have the option of departing from the model with the presentation of a legitimate cost study.

When asked, we indicated that RICA does not support a cap on USF support corresponding to what the ILEC receives on a per line basis. RICA members' costs of providing a network to reach (potentially all) subscribers in an area—which the USF high cost programs require—are high when compared to the state-wide average costs of the large price cap ILECs against which they compete. Nevertheless, because RICA members most often quickly earn a majority of customers, per line costs are not as high as they would be for a CLEC that slowly accumulates a small market share. Because of that fact and that the overall number of potential wireline rural CLEC lines is relatively small nationwide, RICA does not believe that allowing wireline rural CETCs to receive support based on their own costs would substantially contribute to an increase in high cost USF funding requirements.

Responding to Mr. Gregg, we indicated that, though it has taken no position on point, RICA and its members would doubtfully be impacted by any proposed change to the USF rules that mandated a freeze on per line USF support for a period of five years after the purchase of ILEC lines. As a general principle, however, we insisted that the USF rules ought to reflect the actual costs of a carrier's service area, rather than the status of a previous provider. In this context, we mentioned RICA's support for the petition of one of its members, Mid-Rivers, which seeks to be declared the incumbent in its Montana CLEC service territory after having acquired in excess of 90% of the local lines through competition with the incumbent. The Commission has been considering the petition since February 2002.

In addition, we discussed the problems inherent to the "primary line" proposals, such as overwhelming administrative burdens and the prospect of abuse by carriers improperly compelling customers to declare such carrier, or by carriers improperly declaring themselves, the provider of the "primary line." Also, primary line proposals do not adequately address the fact that, as ETCs, carriers must be prepared to establish a network capable of serving all potential subscribers in the service area. While a "primary line" requirement may appear to be a simple fix to control Fund growth, RICA submits that there is simply no way to ensure that such a policy could be implemented or enforced fairly and adequately.

This *ex parte* notice is being filed electronically pursuant to Commission rules 1.1206(b) and 1.49(f).

Please contact the undersigned with any questions related to this submission.

Respectfully submitted,

/s/ Clifford C. Rohde
Clifford C. Rohde
Counsel to RICA

cc: Billy Jack Gregg (via email)