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**FILED ELECTRONICALLY**

November 20, 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

Dear Ms. Dortch:

On November 19, 2003, David Cosson and I spoke via telephone with Florida Public Service Commission economic analyst and Federal-State Joint Board ("FSJB") PSC staff appointee Greg Fogleman to discuss concerns of the Rural Independent Competitive Alliance ("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 current "portability" rules, whereby a competitive Eligible Telecommunications Carrier ("ETC") can receive only as much universal support on a per line basis as that received by the incumbent carrier against which it competes, are not rational as applied. RICA believes, rather, 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. 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. We stressed that any changes modeled after RICA's recommendations could and should be made effective immediately. Immediate implementation would facilitate the entry of RICA members and other actual or potential rural CLECs to enter the remote, high cost markets that large ILECs continue to ignore. Such would help the individuals in these areas bridge the so-called digital divide and advance the universal service principle found in Section 254(b)(2) of the Communications Act ("Act") of bringing access to advanced services to all Americans.

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. When asked whether state universal support mechanisms should perform more of a role in guaranteeing support to areas served by non-rural carriers, we explained that while RICA supports establishment of state universal support mechanisms, the potential availability of state support is not a basis for maintaining a federal system that does not accomplish the goals of the Act.

Responding to Mr. Fogleman's inquiry regarding a proposal to change the USF rules to limit support to no more than one ETC once a certain cost per line threshold is met, we pointed out that Section 214(e)(2) of the Act may not permit an explicit proscription of the designation of more than one ETC in a particular service area.

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." RICA believes it would be virtually impossible to determine 1) who the primary customer is in many households, and 2) whether multiple providers are receiving support for the same customer. 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.

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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: Chairman Lila Jaber, Florida PSC (via email)  
Greg Fogleman (via email)