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

In the Matter of	)	
	)	
Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment	))))	GN Docket No. 04-54

COMMENTS
OF THE RURAL INDEPENDENT COMPETITIVE ALLIANCE

The Rural Independent Competitive Alliance ("RICA"), by counsel, submits these Comments in response to the Commission's Notice of Inquiry, 69 Fed. Reg. 18508 (2004), in the above-captioned matter.

SUMMARY

RICA provides in these Comments a brief snapshot of the provision of advanced telecommunications capabilities in areas served by rural CLECs, as captured by a current survey of RICA membership.[1] At the same time, RICA recommends generally Commission policy must guarantee the continued ability of carriers to deploy robust networks, and ensure that like services receive like regulatory treatment.

RICA MEMBER ADVANCED SERVICES/FACILITIES DEPLOYMENT

Founded in 1999, RICA is a national association of some eighty small, rural competitive local exchange carriers ("CLECs") affiliated with independent incumbent LECs. It is the

[1] More than two-thirds of membership responded to the April-May 2004 survey.

recognized voice of the rural CLEC industry. Despite their size, RICA members have brought, principally through the deployment of their own facilities, modern and advanced telecommunications and information services to rural areas long neglected by large incumbent local exchange carriers ("ILECs"). RICA members' great success throughout rural America is the tangible result of the Telecommunications Act of 1996 and FCC policy implementing that law.

Nearly half of RICA members have only 1000-5000 access lines. They typically apply either an "edge out" or "fill the donut hole" strategy to enter the market to compete against large ILECs whose rural area and very small town service areas abut those of the independent ILEC to which the RICA members are affiliated. Whereas the large ILECs, by ignoring these areas have relegated them to telecommunications backwaters, RICA members offer high quality and advanced services and close proximity to staff and management. Accordingly, RICA members often quickly earn great market share. Nearly a third of reporting RICA members have captured more than a 70% share of the local access market,[2] and the great majority of RICA members anticipate growth in the coming two years.

In addition to providing basic telephone service and associated vertical features, RICA members are at the forefront of offering advanced telecommunications capabilities and services to rural Americans. RICA members make use of cutting edge technologies to provide high-speed Internet connections and advanced television offerings to their subscribers. In many cases, as topography and business cases dictate, RICA members will use more than one technology to provide varied advanced services to their customers. So, for example, nearly 95% of reporting RICA members provide DSL services to subscribers. Almost 20% offer cable modem service.

[2] In fact, one RICA member, Mid-Rivers Communications, garnered such significant market share (well in excess of 90%) that it petitioned the Commission in February 2002 to be named the ILEC in Terry, Montana, a move RICA supported. The Commission solicited comments in April 2002, but has yet to issue a decision on Mid-Rivers' petition. CC Docket No. 02-78.

More than 20% provide wireless broadband connectivity, and 20% offer WIFI hotspots. At least 18% offer Voice over Internet Protocol (VoIP) services to business and/or residential customers.

As with services and technologies, RICA members also make use of varied physical plant. Of reporting companies, more than 20% use a hybrid copper/fiber plant. Twelve percent make use of hybrid fiber/coaxial cable plant. Nine percent utilize LMDS or MMDS and 27% deploy WIFI hotspots and/or WI-MAX facilities. Perhaps most remarkably, 50% of reporting companies deliver fiber to the home or premises.

A case in point is that of Nex-Tech, a RICA member and affiliate of Rural Telephone Service Co., Inc., operating in rural Kansas. To fill a void in the marketplace, Nex-Tech entered the CLEC and broadband markets in several northwest Kansas communities over three years ago. With the assistance of loans through the RUS Broadband Loan Program, Nex-Tech deployed a fiber-to-the-home, (FTTH) network in the communities of Norton, Almena and Osborne over an 18-month period. Nex-Tech currently has plans to build a fiber-based system in two additional communities, Phillipsburg and Stockton, with the assistance of additional RUS broadband loans.

Nex-Tech also is currently constructing a fiber-based broadband system in Hays, Kansas, supplemented with wireless and UNE. Nex-Tech is providing broadband service via wireless in 11 other, smaller communities in Northwest Kansas. To bring broadband coverage to 100 percent of the households in the region, Nex-Tech recently partnered with a local electric cooperative to offer WildBlue broadband satellite service to reach the remaining areas difficult to serve with conventional methods.

As a result of Nex-Tech's deployment initiatives, residents and businesses in these communities went from having no broadband access at all to having a network that could support a virtually unlimited capacity of voice, video and data communications. Some might suggest that

rural areas, like northwest Kansas have no pressing need for broadband services. Nex-Tech's penetration rates suggest otherwise. In the Nex-Tech FTTH communities, broadband penetration rates range from 18-26 percent, in just 36-months of offering the service, and are gaining momentum. New broadband connects came on-board at a 2 percent rate per month in the first quarter of 2004.

Several of Nex-Tech's broadband business customers have told the carrier how grateful they are to have the service, and that it is absolutely vital for their operation to remain competitive in the global marketplace. Economic conditions have taken a toll on western Kansas, creating a tremendous outward migration. By providing broadband coverage, Nex-Tech is committed to economic development activities to attract small businesses back to the region in order to create jobs, and provide bright, young people an opportunity to stay at home if they so choose. When it comes to broadband, Nex-Tech and other RICA members strongly believe that no child, no family, and no business should be left behind.

RICA POLICY RECOMMENDATIONS

Notwithstanding the hard-earned success RICA members have had delivering advanced services to end users, RICA remains concerned that possible changes to Commission policy could jeopardize gains made in the rural market. The interrelated ongoing proceedings at the FCC related to intercarrier compensation,[3] Universal Service Fund ("USF") contribution methodologies and recovery[4], and IP-enabled services[5] must be resolved consistent with the statutory objectives and the recognition that if adequate revenue streams are not available, there

[3]CC Docket No. 01-92.

[4]CC Docket No. 96-45.

[5]WC Docket No. 04-36.

will be no further investment in rural areas and the continued feasibility of existing operations would be put at serious risk.

RICA already has provided comment in some of these proceedings and likely will in others. For the purposes of this Notice of Inquiry, RICA offers in these Comments only general policy recommendations to help the Commission to shape policies that protect and expand the availability of advanced services in rural America rather than undermine this segment of the industry.

First, Commission policy must guarantee the continued ability of carriers to deploy robust networks. The Commission must bear in mind that advanced services are not available to end users, rural or urban, in a vacuum. Rather, advanced services are provided only over robust, reliable networks. These networks, in turn, are deployed and maintained by businesses. It seems simplistic to mention that these businesses require revenue to keep the networks operating, let alone to upgrade them to provide the advanced and high speed data capabilities that consumers increasingly crave. Yet increasing calls to eliminate or further restrict rural CLEC revenue streams seem to be gaining traction within the Commission.

The principal revenue streams currently available to RICA members are end user revenues, access charges and, to a lesser extent, universal service support.[6] Should any of these streams dry up, RICA members would be hard pressed to continue to provide the advanced and quality services to which their end users are accustomed, and which RICA member competitors are only now beginning to offer in some areas. Indeed, the primary concern of RICA members on a going forward basis is guaranteeing revenue streams, particularly access charges.

Absent revenue generated by access charges (and assuming, as was the case with the MAG Order, no replacement by USF), RICA members would be compelled to raise end user

[6]Only about one quarter of RICA members receive federal USF support.

rates to levels that would likely lead to customer desertion. Moreover, such rates inevitably would well exceed rates for comparable services in urban and suburban areas, in violation of the central tenet of federal telecommunications policy: universal connectivity to communications networks providing comparable services at comparable rates. The Commission must promulgate policies that provide reasonable access to USF support where needed and the continued viability of the USF. At the same time, the Commission must not abandon policies that require carriers to reasonably compensate other carriers to access the networks of the latter.

Second, the Commission must ensure that like services are treated in a like manner. Such proposition necessarily entails at minimum the payment of access charges to network operators and contribution by all service providers to the Universal Service Fund.

RICA recognizes that new networks must offer the functionality that digital convergence requires, and RICA is in the vanguard of delivering such networks and advanced services to rural America. Even as voice communications are converted into bits and back again, however, the bottom line is that voice communications remain so, regardless of how they are created or transported. To network operators such as RICA members, there is no material difference between a call arriving from the public switched telephone network and one arriving from an IP-network. RICA members must route and deliver the call no matter its origin. Accordingly, providers of IP services that make use of RICA member networks just as POTS providers must be expected to compensate RICA members just as a POTS provider would.

In a related vein, providers of IP services offered as a substitution for, or the functional equivalent of, POTS should likewise be required to contribute to USF mechanisms. The goal of the USF program is to connect all Americans to communications networks. Providers of services that make use of those networks should not be exempt from helping to maintain the ubiquity of such networks simply because of their choice of technology in deploying the service.

Competitive and technologic neutrality require like regulatory treatment of like services; anything less promotes regulatory arbitrage and false investment incentives.

CONCLUSION

In light of the foregoing, the Commission is respectfully requested to take note of the great strides RICA member rural CLECs are taking in deploying advanced networks and delivering advanced services to rural America, and to advance policies that would not undermine these initiatives.

Respectfully submitted,

Rural Independent Competitive Alliance

By: /s/

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