

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Iowa Telecom Petition for Forbearance Under)	
47 U.S.C. 160(c) from the Universal Service)	
High-Cost Loop Support Mechanisms)	
)	
Iowa Telecom Petition for Interim Waiver of)	
the Commission’s Universal Service High-)	
Cost Loop Support Mechanisms)	

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER
ADVOCATES**

The National Association of State Utility Consumer Advocates (“NASUCA”¹) submits these reply comments in response to comments filed on Iowa Telecom Services, Inc.’s (“ITSI’s”) petitions to the Federal Communications Commission (“Commission” or “FCC”) that seek alternatively to forbear from certain of the Commission’s rules² or to

¹ NASUCA is a voluntary, national association of 44 consumer advocates in 41 states and the District of Columbia, organized in 1979. NASUCA’s members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. *See, e.g.*, Ohio Rev. Code Chapter 4911; 71 Pa. Cons. Stat. Ann. § 309-4(a); Md. Pub. Util. Code Ann. § 2-205(b); Minn. Stat. Ann. Subdiv. 6; D.C. Code Ann. § 34-804(d). Members operate independently from state utility commissions, as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General’s office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

² Iowa Telecom Petition for Forbearance under 47 U.S.C. from the Universal Service High-Cost Loop Support Mechanism (“ITSI Forbearance Petition”), filed May 8, 2006.

waive those same rules³ in order to increase ITSI's revenues from the federal universal service high-cost fund.

Only a few brief comments were filed, in addition to those filed by NASUCA. Embarq Corporation ("Embarq") and the Independent Telephone and Telecommunications Alliance ("ITTA") support ITSI's petition. AT&T sympathizes with ITSI's situation, but believes that a generic solution would be better.⁴ The Iowa Utilities Board ("IUB") does not state whether either of the Petitions should be granted, but attaches previously-filed comments stating that "high-cost support should be based on the characteristics of the exchange, not the carrier..."⁵

On the other hand, Sprint Nextel Corporation ("Sprint") opposes the petitions, as did NASUCA, but for somewhat different reasons.⁶ Taking all five of the other comments into consideration, NASUCA continues to oppose ITSI's petitions, on behalf of consumers who are the ones intended to be benefited by the USF, but who are also those who pay into the USF.

Those who support ITSI's petitions fail to understand, as NASUCA argued, that neither forbearance from nor waiver of the rules in question will give ITSI the relief it seeks.⁷ That is, forbearance from the rules that grant support to rural carriers like ITSI

³ Iowa Telecom Petition for Interim Waiver of the Commission's Universal Service High-Cost Loop Support Mechanisms ("ITSI Waiver Petition"), filed May 8, 2006.

⁴ "AT&T generally has not supported proposals for piecemeal reform to address specific shortcomings of the existing mechanisms..." AT&T Comments at 1.

⁵ IUB Comments at 1.

⁶ Sprint's comments are also the longest. Sprint's description of its interconnection disputes with ITSI are interesting, and do cast doubt on ITSI's rationale that granting support in its territory will lead to competitive entry. Sprint Comments at 17-20.

⁷ See, e.g., ITTA Comments at 2.

will not allow ITSI to collect support as if it were a non-rural carrier; likewise, waiver of the rules that grant support to rural carriers will not allow ITSI to collect non-rural carrier support.⁸

AT&T seems to assume that ITSI seeks to have its “classification” changed, from a rural carrier to a non-rural carrier.⁹ That concept was neither explicit nor, indeed, implicit in either of ITSI’s petitions or the Appendix that supported both petitions. Yet it should be clear that such reclassification cannot occur as a result of either forbearance from or waiver of the Commission’s rules.

In addition, none of ITSI’s supporters question the calculation in the Appendix that, if it were treated as a non-rural carrier, it would be entitled to \$22.2 million in annual support.¹⁰ As NASUCA also pointed out, however, costs in Iowa under the current forward-looking test are low enough that it is unclear how adding ITSI to the test for the state would be enough to make any Iowa “non-rural” carrier eligible for support.¹¹ Thus it is difficult to see how ITSI would get any support, when its “petitions do not request any modification of the Commission’s forward-looking cost model ... [or] modification of the process ... of determining support based on forward-looking costs.”¹²

NASUCA agrees with Sprint that ITSI “fails to meet the standards for forbearance or waiver.”¹³ Sprint raises an additional point that the Commission must consider:

⁸ See Embarq Comments at 3.

⁹ See AT&T Comments at 2.

¹⁰ See AT&T Comments at 2.

¹¹ See NASUCA Comments at 6-7.

¹² Embarq Comments at 3.

¹³ Sprint Comments at 2.

In 2001, Iowa Telecom requested that the Commission forbear from applying its rules so that it would be able also to extract more revenues from other carriers through its access charges. In that petition, Iowa Telecom raised many of the same arguments that it raises to support of its present request. In 2002, the Commission granted Iowa Telecom's petition for forbearance, such that it was able to increase its average traffic sensitive rate above the level the Commission had previously adopted for the Iowa Telecom service area. When it granted that request, the Commission based its decision partly on the fact that "Iowa Telecom indicate[d] that granting its alternative request will fully address its concerns." Iowa Telecom does not explain why that relief proved insufficient for its needs. Instead, it just recites the same rationale for receiving high-cost loop support that it used in seeking to increase its access charges.¹⁴

It may be that there are reasons why the previous forbearance did not fully address ITSI's concerns, but ITSI's silence on this issue in its thirty-some page petitions is curious if not fatal to its cause.

The supporting comments acknowledge the pendency of the Commission's rural high-cost mechanism.¹⁵ None of the supporters refute Sprint's concern, which echoes that of NASUCA: "Rather than grant, in piecemeal fashion, individual rural carriers' requests to self-select the mechanism that generates the most subsidies, the Commission should adhere to its announced plan to address the diverse issues presented by rural carriers as part of its broader rulemaking proceeding."¹⁶

In conclusion, Sprint correctly notes that:

¹⁴ Sprint Comments at 8 (footnotes omitted). NASUCA would note that Sprint's citation to the order on the previous petition is incorrect. The quoted language comes from *Petition for Forbearance of Iowa Telecommunications Services, Inc. d/b/a/ Iowa Telecom Pursuant to 47 U.S.C. § 160(c) from the Deadline for Price Cap Carriers to Elect Interstate Access Rates Based on the CALLS Order or a Forward Looking Cost Study*, CC Docket No. 01-331, Order, 17 FCC Rcd 24319 (2002) at paragraph 22, not paragraph 9 as cited by Sprint.

¹⁵ See, e.g., IUB Comments, Embarq Comments, AT&T Comments.

¹⁶ Sprint Comments at 12. As previously noted, AT&T agrees that the generic proceeding should take precedence over a piecemeal approach. See footnote 4, above.

Iowa Telecom does not face any unique circumstances that could warrant deviating from the current rules. ... Iowa Telecom is not the only rural carrier that does not qualify for high-cost loop support because its embedded costs do not exceed 115% of the national average loop cost. In fact, any waiver or forbearance on behalf of Iowa Telecom will only prompt the same kinds of requests from similarly situated carriers.¹⁷

ITSI's petition lacks merit, and should be denied.

Respectfully submitted,

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¹⁷ Sprint Comments at 3.