

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

In the Matter of )  
 )  
Broadband Industry Practices ) WC Docket No. 07-52  
 ) FCC 07-31

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION  
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> files these initial comments in response to the Federal Communications Commission's (Commission's or FCC's) April 16, 2007, Notice of Inquiry (NOI) on the nature of the broadband market.<sup>2</sup> Specifically, the Commission seeks comment on whether regulatory action is necessary to correct harmful market behavior.<sup>3</sup>

The Commission should update its 2005 Internet Policy Statement to include NTCA's open-Internet principles which are designed permit rational management of bandwidth, guarantee reasonable rates for special access transport services and access to the Internet backbone, and provide high-quality Internet protocol (IP) based services to consumers. NTCA's principles will assist the Commission in its development of sound nationwide broadband policies on market practices.

---

<sup>1</sup> NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 575 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members 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). NTCA members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

<sup>2</sup> In the Matter Of Broadband Industry Practices, WC Docket No. 07-52, Notice of Inquiry (rel. Apr. 16, 2007) (NOI), ¶ 1.

<sup>3</sup> *Id.*, ¶¶ 1, 9, 10.

**I. The Commission Should Use This Proceeding to Address Rural ILEC Concerns Regarding Access to the Internet Backbone.**

Continued access to the Internet backbone is a serious concern to NTCA member companies, and the Commission should revise its Policy Statement to reflect these rural ILEC concerns. Reliable and reasonably priced access to the Internet backbone is vitally important to the ability of rural ILECs to provide their customers with affordable broadband services. NTCA member companies do not have access to many Internet backbone providers. In a recent survey of NTCA member companies, 57% of survey respondents indicated that they have two or fewer choices for Internet backbone providers, and 38% indicated they have but a single option.<sup>4</sup> Further increasing market concentration, without accompanying safeguards, will threaten their ability to provide their customers with the type of service they want and are entitled to receive.

The Commission should encourage public disclosure of contracts involving special access transport and access to the Internet backbone. Several large Internet backbone providers are vertically-integrated carriers who compete with small carriers in rural areas. These large Internet backbone providers, therefore, have a financial incentive to directly or indirectly influence a small rural ILEC's ability to access to the Internet backbone. Small communications, broadband, and IP companies have little or no leverage in negotiations with large companies. Large vertically integrated corporations can walk away from negotiations, small companies cannot. Non-disclosure agreements hide from the public any discriminatory rates and conditions that may be imposed on small providers seeking wholesale special access transport and access to the Internet backbone.

---

<sup>4</sup> NTCA 2006 Broadband/Internet Availability Survey, available at [www.ntca.org](http://www.ntca.org).

Non-disclosure agreements and non-cost based pricing prevent the Commission from ensuring that rural carriers and their customers receive the same quality of service and reasonable prices for these facilities and services as compared to urban carriers and their customers. To ensure comparable rates and services in the future, the Commission should require Internet backbone providers to provide small rural carriers with non-discriminatory access to the Internet backbone, including special access transport needed to reach the Internet backbone. Internet backbone providers should also be required to price their Internet backbone service and special access transport services based on their cost to provide these services. Lastly, Internet backbone providers should be required to make publicly available all of the terms, conditions and prices for their Internet backbone services and special access transport services needed to reach the Internet backbone. In the absence these measures, it will be virtually impossible for the Commission to know whether large vertically integrated Internet backbone providers are abusing their market power.

## **II. NTCA's Open-Internet Principles Can Help Guide the Commission in Developing the FCC's Nationwide Broadband Policies on Market Practices.**

NTCA and its members are committed to bring advanced telecommunications services to their customers and to provide the best quality of service possible. The Commission should consider incorporating NTCA's "Net Neutrality" or "Open-Internet" principles which are designed to permit rational management of bandwidth, guarantee reasonable rates for special access services and access to the Internet backbone, and provide high-quality IP-based services to consumers:

1. Communications network providers should be allowed to provide consumers with non-discriminatory access to any lawful content or services on the public Internet through their

Internet connection and allow consumers to attach any lawful equipment to their Internet connection.

2. Communications network providers should be allowed to offer quality of service priced public and private services to providers of IP-enabled services who seek to guarantee the quality of their services to the communications network provider's end-user customers.
3. Communications network providers should be allowed to take reasonable and non-discriminatory measures to protect their networks through the management of bandwidth and transmission of content and applications to their customers.
4. Communications network providers defined as a "rural telephone company" pursuant to the Communications Act of 1934, as amended (Act), if required to provide stand-alone/naked broadband service, should be allowed to provide this service with the same level of universal service funding as allocated to their bundled broadband service. Network providers offering stand-alone/naked broadband service must also have adequate price flexibility to address the competitive market conditions in their service areas.
5. Internet backbone providers should be required to provide all communications network providers with non-discriminatory access to the Internet backbone, including special access transport needed to reach the Internet backbone.
6. Internet backbone providers should be required to price their Internet backbone service, including special access transport needed to reach the Internet backbone, based on their cost to provide the service.
7. Internet backbone providers should be required to provide non-affiliated communications network providers with the same terms, conditions, and prices that the Internet backbone providers charge their affiliated companies for access to the Internet backbone, including special access transport needed to reach the Internet backbone.
8. Internet backbone providers should be required to make publicly available all of the terms, conditions and prices for their Internet backbone services, including special access transport needed to reach the Internet backbone.

To achieve and maintain the goal of universal affordable broadband service for all Americans, the FCC should regulate the terms, conditions and prices of Internet backbone services, including special access transport needed to reach the Internet backbone, to prevent large vertically integrated Internet backbone providers from abusing their market power by imposing unfair and discriminatory pricing on small, rural communications carriers providing

retail high-speed Internet access service in rural, insular and high-cost areas of the United States. By taking these measured steps, the Commission can best assist rural ILEC retail Internet access providers in their efforts to offer high-quality services Internet-based services to consumers.

### **III. Conclusion.**

For these reasons, the Commission should update its 2005 Internet Policy Statement to reflect NTCA's open-Internet principles which are designed to permit rational management of bandwidth, guarantee reasonable rates for special access transport services and access to the Internet backbone, and provide high-quality IP-based services to consumers.

Respectfully submitted,

**NATIONAL TELECOMMUNICATIONS  
COOPERATIVE ASSOCIATION**

By: /s/ Daniel Mitchell  
Daniel Mitchell

By: /s/ Karlen Reed  
Karlen Reed

*Its Attorneys*

4121 Wilson Boulevard, 10<sup>th</sup> Floor  
Arlington, VA 22203  
(703) 351-2000

June 15, 2007

## CERTIFICATE OF SERVICE

I, Adrienne L. Rolls, certify that a copy of the foregoing Initial Comments of the National Telecommunications Cooperative Association in WC Docket No. 07-52, FCC 07-31, was served on this 15th day of June 2007 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-B201  
Washington, D.C. 20554  
[Kevin.Martin@fcc.gov](mailto:Kevin.Martin@fcc.gov)

Commissioner Robert M. McDowell  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-C302  
Washington, D.C. 20554  
[Robert.McDowell@fcc.gov](mailto:Robert.McDowell@fcc.gov)

Commissioner Deborah Taylor Tate  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A204  
Washington, D.C. 20554  
[Deborah.Tate@fcc.gov](mailto:Deborah.Tate@fcc.gov)

Best Copy and Printing, Inc.  
445 12th Street, SW  
Room CY-B402  
Washington, D.C. 20554  
[fcc@bcpiweb.com](mailto:fcc@bcpiweb.com)

Commissioner Michael J. Copps  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-B115  
Washington, D.C. 20554  
[Michael.Copps@fcc.gov](mailto:Michael.Copps@fcc.gov)

Janice Myles  
Federal Communications Commission  
Competition Policy Division, WCB  
445 12<sup>th</sup> Street, SW, Room 5-C140  
Washington, D.C. 20554  
[Janice.myles@fcc.gov](mailto:Janice.myles@fcc.gov)

Commissioner Jonathan S. Adelstein  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A302  
Washington, D.C. 20554  
[Jonathan.Adelstein@fcc.gov](mailto:Jonathan.Adelstein@fcc.gov)

/s/ Adrienne L. Rolls  
Adrienne L. Rolls