Before the
Federal Communications Commission
Washington, D. C. 20554

In the Matter of:	)
	)
High-Cost Universal Service Support	) WC Docket No. 05-337
	)
Federal -State Joint Board on Universal Service	) CC Docket No. 96-45
	)
Lifeline and Link-Up	) WC Docket No. 03-109
	)
Universal Service Contribution Methodology	) WC Docket No. 06-122
	)
Implementation of the Local Competition Provisions	)
in the Telecommunications Act of 1996	) CC Docket No. 96-98
	)
Developing a Unified Intercarrier Compensation	)
Regime	) CC Docket No. 01-92
	)
Intercarrier Compensation for ISP-Bound Traffic	) CC Docket No. 99-68
	)
IP-Enabled Services	) WC Docket No. 04-36

REPLY COMMENTS OF ALEXICON TELECOMMUNICATIONS CONSULTING

Alexicon Telecommunications Consulting ("ALEXICON") hereby submits its Reply Comments in response to the Federal Communications Commission ("FCC" or "COMMISSION") "Order on Remand and Report and Order and Further Notice of Rulemaking"[1]("ORDER"), for which Comments were due November 26, 2008. These Reply Comments will also reference the statements issued by Commissioners on the same release date. Alexicon's Reply Comments will focus primarily upon matters relating to the High-Cost Universal Service Fund ("USF") and Intercarrier Compensation ("ICC" or "ACCESS") as contained in various parties' Comments, mainly related to small rate-of-return ILECs.

1 FCC 08-262, Adopted November 5, 2008 and Released November 5, 2008

.INTRODUCTION

Alexicon provides a range of professional management, financial, and regulatory services to a variety of small rate-of-return Incumbent Local Exchange Carriers ("ILECs")[2] who serve geographic areas characterized as rural, insular and Native American tribal lands. Alexicon's clients vary widely in size from single-exchange/wire center companies to larger multi-wire center/exchange carriers and encompass some of the most sparsely populated high-cost-to-serve areas of the country.

All of Alexicon's clients are highly dependant upon both USF and ICC to enable high-quality telecommunications service provision to their customers. It is through both the USF funds and ICC (mainly federal/interstate in nature) that these small rate-of-return ILECs are able to provide rural/insular and tribal customers with telecommunications services equal to, or better than, those provided to urban customers. Through the use of these funds it is also possible for small rate-of-return ILECS to maintain customers' rates comparable to urban rates that would not otherwise be possible. Alexicon's clients, as do most other similar small rate-of-return ILECs, have continually provided a high level of Carrier of Last Resort ("COLR") universal service availability. However, in many instances their customers are able to avail themselves of modern, high quality, technically advanced services on more favorable terms and with quicker response to the customers' service requests, than their more urban counterparts.

In many instances small rate-of-return ILECs have burdened their owners, shareholders, cooperative members, etc. with increasing levels of financial long-term obligations to meet their service commitments to their customers. These obligations, often planned assuming many years to complete revenue recovery and with extended facility service life, have been developed under existing federal and state regulatory schemes. These service plans and network build outs are usually the major rural/insular area investments (and job sustaining activities) in these ILEC areas. The ILECs, and their customers, rely

[2] Under the Regulatory Flexibility Act of 1980, as amended, all have fewer than 1500 employees and are not dominant in their field of operations, 15 U. S. C. 632; and further are Incumbent Local Exchange Carriers as defined in the Telecommunications Act of 1996 ("ACT"), each providing less than fifty thousand (50,000) access lines

upon these telecommunications services, and the continued ability of the rate-of-return ILECs to be able to maintain urban-equivalent quality-of-life services, for their continued ability to thrive in these rural/insular and tribal areas. Any major disruption(s) that might occur to the current and vital USF and ICC flow(s) could quickly have a devastating effect to both companies and their customers.

Because of these concerns, and with the knowledge of the high-quality, efficient utilization of various USF and ICC by the small rate-of return ILECs, Alexicon has been a consistent participant in a variety of prior FCC proceedings related to these issues. Our participation in the proceedings will continue and concentrate on the specifics of any or all proposals aimed at USF/ICC effects toward these small rate-of-return ILECs.

GENERAL

Alexicon generally finds itself perplexed at the overall tenor and timing of all three proposed Appendix Orders in this matter[3]. There has been a series of ongoing proposals regarding both matters (USF and ICC), most recently starting with: the Federal-State Joint Board on Universal Service (CC Docket No. 96-45) request for Comments on four potential USF Proposals in September 2005; the Multi-Association Group (MAG) Plan in 2000 affecting ICC; and the most recent 2006 Missoula Plan on a "comprehensive" ICC proposal. These have all resulted in a series of various Comment and Reply periods and in literally hundreds of ex parte presentations to the FCC and Joint Board.

As a result of these plans/proposals there have been several modifications made in recent time periods to both USF and ICC. Alexicon contends that these changes have produced positive outcomes to both USF and ICC but have not been in place long enough to judge their long-term effect toward enhancing the efficiency and effectiveness of current FCC regulations.

[3] Appendix A "Chairman's Draft Proposal" (A1-158); Appendix B "Narrow Universal Service Reform Proposal" (B1-42); and Appendix C "Alternative Proposal" (C1-157)

At the same time, since the implementation of USF and ICC regimes (essentially since 1984) there have been cataclysmic changes occurring within the telecommunications industry and most recently in the economic structure(s) of the United States:

1. Extreme technology shifts have occurred within what was considered “traditional telephony” that have caused many landline services to be replaced by wireless, causing both revenue reductions and investment stranded in formerly traditional telephone service areas. Two “giant” wireless providers (AT&T and Verizon) currently dominate this wireless marketplace and little, if any, ability to “compete” in these services exists for small ILECs. This has occurred given FCC spectrum allocation procedures (mainly in the 700, 800 and 900 Mhz bands) and the merger/ acquisition activities of the largest wireless service providers.

2. The prior AT&T monolith has essentially been reformatted through Regional BOC mergers, acquisitions, etc. and much of the former Justice Department/AT&T Consent Decree restrictions are no longer applicable. Similarly, Verizon has greatly increased its presence throughout the country (again by mergers and acquisitions of former RBOCs). These companies, with their multitude of service offerings, market dominance, and ability to offer wireless, landline, Internet, Broadband (including IP video, etc.) are increasing revenue reduction pressures on the smaller companies.

3. The development of the Internet and related IP-technology has drastically changed the usage of the Public Switched Telephone Network while ICC revenues continue to decrease for small ILECs.

4. The Telecommunications Act of 1996 enhanced consumers’ abilities to choose telecommunications providers (local, long-distance, Internet, etc.), which puts pressure on both local and other ILEC revenues.

5. The recent nationwide “financial meltdown”, which shows no sign of abating in the near future, has severely restricted the ability of small ILECs to borrow necessary

funds for continued Universal Service/COLR responsibilities and for customer-requested technological investments.

Alexicon believes that these all amplify the necessity of the small rate-of-return ILECs to continue their reliance upon USF and ICC as major funding/revenue sources with which to continue their ability to provide high quality telecommunications services, at reasonable rates. Furthermore, the current economic malaise, and the likely potential for prolonged consumers' resistance to any increases in their ongoing costs (especially those perceived to be "basic necessities"), will only increase economic uncertainty. The lack of new or increased revenue sources for small rate-of-return ILECs, especially those in rural/insular and tribal areas, will continue to create financial strain for these companies.

Added to all of the foregoing is the fact that current FCC Rules related to USF and ICC have influenced the small rate-of-return ILECs long-term financial and service planning. Also affected are an ILEC's ability to either seek to acquire former RBOC (and other) certificated areas[4] or to "overbuild" these areas to provide customers with high-quality modern telecommunications services not previously afforded to them. Various FCC Part 54 Rules[5], coupled with the availability of federally sponsored/guaranteed loan programs like Rural Utility Services and Rural Telephone Bank, have historically enabled and encouraged these activities.

With all of these events and factors in mind, Alexicon asserts that this is not an auspicious time for implementing what we believe to be unsubstantiated USF and ICC change proposals, which have the potential to cause unfettered reductions in the ability of small ILECs to sustain their current level of quality service (at reasonable rates). It is clear to Alexicon and its clients that all three USF and ICC Proposals contained in the Appendix attached to the Order have the potential to wreak irreversible financial havoc on small rate-of-return ILECs, who currently serve some of the most remote high-cost

---

[4] This has been especially helpful in allowing, and encouraging Native American tribes in acquiring ILEC service rights on tribal lands.

[5] Especially 54.305-the so-called "safety valve" for high-cost USF support; and the expanded ability of FCC-granted study area waivers affecting ILEC acquired rural exchanges. Also the 5/16/06 FCC extension of the RTF plan continuing rural high-cost USF affects ILEC financial investment planning.

areas of the country.

Finally, Alexicon respectfully suggests that the FCC consider allowing recently effective USF and ICC regime changes, including USF management and oversight revisions, sufficient implementation time to assess if these changes are capable of resolving perceived inefficiencies/inequalities in current USF and ICC procedures before offering more draconian changes to USF and ICC. Specifically, Alexicon believes that the FCC's actions related to CETC high-cost USF capping and the future elimination of the "identical support rule" will by itself relieve tremendous pressures currently causing high-cost USF fund size increases.

SPECIFIC RESPONSES

Imposition of a cap/freeze to High Cost USF

Alexicon supports the Comments of both the National Telecommunications Cooperative ("NTCA") and the National Exchange Carrier Association ("NECA") in opposing any proposed freeze of high-cost USF[6] for rate-of-return carriers. Not only do we oppose any freeze of high-cost USF (whether immediate or transitional), but Alexicon further believes that coupling such a freeze and any expanded service commitment regarding Broadband services[7] would appear to present a potential unconstitutional taking of ILEC property[8]. Alexicon is also troubled (based upon its understanding) in the apparent lack of authority in the Act, or in any current FCC Rules, granting the FCC authority to allow any such overall freeze of USF.

The potential use of Reverse Auctions[9]

Alexicon and most entities[10] representing small rate-of-return ILECs continue to oppose

6 Appendix A and Appendix B.
7 Appendix A
8 Given the Appendix A requirement of a five year period to meet all customer broadband demand OR lose high-cost USF in a "reverse auction" methodology-in our view a requirement to invest without addition related investment USF support.

any use of reverse auctions in the USF process. We continue our ongoing assertion that no empirical evidence in support of reverse auctions has ever been provided in these or other related proceedings. Furthermore, the instant proposal that a "maximum amount of support equal to the existing incumbent's high-cost USF is to be a basis of the reverse auction" is an untested, unsupported notion that is likely to produce significant savings or encourage multiple bidders.

Movement of Intrastate tariffed access charges to Interstate levels

Alexicon agrees with NTCA that state commissions should be allowed to voluntarily move intrastate tariffed access charges to interstate levels over a reasonable period of time.[11] Alexicon contends that the FCC, despite its assertions in the Order, lacks legal authority to compel states to do so. Alexicon further asserts that any attempt by the FCC to force state mirroring of interstate rates would result in a protracted, expensive and ultimately futile effort, probably negating any perceived advantages of such actions.

In any event, Alexicon urges that any such equalization of interstate and intrastate ICC/access rates must be accompanied by implementation of a recovery method for rate-of-return regulated ILECs to maintain their existing revenue flow. Alexicon currently supports the addition of a "restructure mechanism", as proposed in the Missoula Plan, to accomplish revenue neutrality. Moderate increases to End User Charges[12] are a rational approach to this issue and should be considered in any future Notice proceeding.

Consolidation of Reciprocal Compensation and Access Charges

Alexicon supports NECA's Comments that the Commission delays any such unification to later proceedings. Alexicon agrees that those proceedings should also focus on a wide variety of interconnection issues, including addressing both IP-enabled and all-packet

---

9 As proposed in Appendix A and B.
10 Including NTCA and NECA
11 On a company-by-company basis, NOT on a "per-state" approach
12 As proposed in NECA Comments

broadband networks of the future.

Other Issues

Alexicon is surprised by the lack of comments regarding the Order's Appendix's referral of possible changes to end-user charges to the Separations Joint Board[13], considering that the traffic allocation process itself is currently under a "freeze" and has continually been subject to requests for resolution of its current/future status. Alexicon urges the FCC to recognize that the "reform" resolution of the separations process is vitally important and should be accomplished simultaneously with any USF and ICC reform measures in an expeditious in-depth reviewed manner.

CONCLUSION

Alexicon applauds the Commission's continued efforts toward resolving issues of USF and ICC. We are concerned however that the proposals contained in the Order will not, by themselves, resolve the multitudes of issues and concerns that have been under consideration during the current Federal-State Joint Board on Universal Service tenure. Based on both Chairman Martin's Statement, and statements issued by the other FCC Commissioners on November 5, 2008, Alexicon and apparently many other interested parties appear unconvinced that a full and adequate review of all pertinent issues will be resolved in the December 18, 2008 FCC Open Meeting.

The issues contained in the Order, and their potential long-term affects to rate-of-return ILECS as well as their customers, are of such magnitude that there should be no "rush to judgment". Any recommended changes to USF and ICC that could be voted on, based upon the Order, will have far-reaching and long-term affects on the majority of small rate-of-return ILECs, who have the ability to least absorb any USF/ICC revenue reductions or potentially unrecoverable increases to their current investment plans.

[13] Appendix A, pg. A-136, para. 303-310

Alexicon respectfully suggests that the Commission exercise utmost caution and err on the side of conservative action when considering any changes to existing USF and ICC regimes. We further suggest, as previously noted, that the Commission consider allowing more time to examine the results of actions previously taken this year relative to the USF and ICC. While we share the Commission's concerns to effectuate revisions or reforms indicative of enhanced efficiencies in USF and ICC, as well as bolstered broadband implementation, unintended consequences of hurried actions could have devastating long-term impacts on rate-of-return regulated ILECs serving rural/insular and tribal land areas.

Respectfully submitted,

Alexicon Telecommunications Consulting
2055 Anglo Drive, Suite 201
Colorado Springs, CO 80918