

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

In the Matter of)
) CC Docket No. 80-286
Jurisdictional Separations and Referral to)
the Federal-State Joint Board.)

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

I. INTRODUCTION

In the Notice of Proposed Rulemaking (“NPRM”) released March 27, 2009 in this docket, the Federal Communications Commission (“FCC” or “Commission”) seeks comment on extending until June 30, 2010, the current freeze of Part 36 category relationships and jurisdictional cost allocation factors.¹ As described in the NPRM, the jurisdictional separations process “is the process by which incumbent local exchange carriers (LECs) apportion regulated costs between the intrastate and interstate jurisdictions.”²

¹ *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286 (“80-286”), FCC 09-24, Notice of Proposed Rulemaking (rel. March 27, 2009).

² NPRM, ¶ 2.

The National Association of State Utility Consumer Advocates (“NASUCA”) as an organization³ presents these brief comments to address the issues raised by the NPRM, which are of significant importance to the ratepayers that NASUCA represents, given that current separations are imbalanced to the tune of **\$2-6 billion against those ratepayers.**⁴

II. EXTENSION OF THE SEPARATIONS FREEZE

In 2001, the Commission froze the separations factors at then-current levels.⁵ The current NPRM is the third seeking comment on extending the jurisdictional separations freeze. The current freeze is due to expire on June 30, 2009.⁶ Given the Commission’s timing, practically speaking extending the separations freeze is probably the only course of action that makes sense. NASUCA therefore recommends that the Commission order one more extension of the freeze on jurisdictional separations until June 30, 2010, as suggested in the NPRM. However, the Commission should commit to this being the last

³ NASUCA is a voluntary association of 45 advocate offices in 42 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA’s members are designated by laws of their respective jurisdictions 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. § 8.33; 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). NASUCA’s associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority.

⁴ 80-286, Reply Comments of the National Association of State Utility Consumer Advocates, the New Jersey Division of Rate Counsel and the Maine Office of the Public Advocate, (November 20, 2006) (“NASUCA et al. Reply Comments”) at 48.

⁵ 80-286, Report and Order, 16 FCC Rcd 11382, 11397-88 (2001) (“Separations Freeze Order”).

⁶ See *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Order and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5516, 5517, 5523, paras. 1, 16 (2006) (*2006 Separations Freeze Extension and Further Notice*) (extending the initial separations freeze scheduled to expire June 30, 2006 for three additional years).

extension and put forth the effort necessary to reform its jurisdictional separations as discussed in the next section. After more than a decade of inaction, in an industry that has changed as drastically as the telecommunications industry, the FCC must accomplish the major reforms needed.

III. SEPARATIONS REFORM

Comprehensive reform of jurisdictional separations is necessary and long overdue. The state of the telecommunications marketplace is vastly different than what it was ten years ago, even five years ago. This was illustrated in comments submitted by NASUCA, accompanied by detailed affidavits of its experts, in response to the *2006 Separations Freeze Extension and Further Notice*.⁷ NASUCA will not reiterate the extensive discussion in those comments and affidavits here, but the discussion is no less relevant today as it was in 2006. Ratepayers deserve no less than the Commission's full attention to these issues, which impact billions of dollars in carrier costs and revenues. The Commission must address these issues and how they affect jurisdictional separations and the Commission's accounting regulations in general, including the allocation of costs and revenues between regulated and non-regulated operations of carriers.

Now is the time, especially under a new Administration, for the Commission to move forward with reforming its accounting regulations. During the next month or two, the Commission should begin to work with the Federal-State Joint Board on reforms

⁷ See 80-286, Comments of the National Association of State Utility Consumer Advocates, the New Jersey Division of Rate Counsel and the Maine Office of the Public Advocate; and Affidavits of Susan Baldwin and Dr. Robert Loube (August 22, 2006); *id.*, NASUCA et al. Reply Comments.

necessary to bring its accounting regulations, including jurisdictional separations, in line with the current marketplace. Revised accounting should protect ratepayers for the future; it should also attempt to recompense consumers for the previous misallocations of costs and revenues.

Respectfully submitted,

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