

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

**CHINA TELEPHONE COMPANY,)
FAIRPOINT VERMONT, INC., MAINE)
TELEPHONE COMPANY, NORHTLAND)
TELEPHONE COMPANY OF MAINE,)
INC., SIDNEY TELEPHONE COMPANY,)
AND STANDISH TELEPHONE)
COMPANY, EACH A DEBTO-IN-)
POSSESSION: PETITION FOR)
CONVERSION TO PRICE CAP)
REGULATION AND FOR LIMITED)
WAIVER RELIEF)**

WC Docket No. 10-47

COMMENTS OF THE

INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

To the Commission:

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits comments on the Petition of China Telephone Company, FairPoint Vermont, Inc., Maine Telephone Company, Northland Telephone Company of Maine, Inc., Sidney Telephone Company, and Standish Telephone Company (collectively, FairPoint Petitioning LECs) for Conversion to Price Cap Regulation and for Limited Waiver Relief (Petition). ITTA supports the FairPoint Petitioning LECs' request for relief. The evolving telecommunications market warrants Commission action that accords carriers flexibility to engage operational efficiencies in order to meet market demands and strategic needs effectively.

ITTA is an alliance of mid-sized local exchange carriers (LECs) that collectively provide local exchange and exchange access services to 24 million lines in 44 states.

ITTA members offer interexchange (IXC) services, commercial mobile radio

services (CMRS), and information services, both as incumbent rate-of-return and price-cap LECs (ILECs) and competitive LECs (CLECs). The FairPoint Petitioning LECs explain that price-cap regulation will enable them to operate with additional efficiency, resulting in lower overall rates for their customers.¹ ITTA supports the FairPoint Petitioning LECs' request for regulatory relief they have determined to be best-suited to their needs. ITTA submits that regulatory flexibility must be promoted in order to enable carriers like the FairPoint Petitioning LECs to maximize efficiencies while meeting the demands of a dynamic telecommunications marketplace.²

Conversion of the FairPoint Petitioning LECs' rate-of-return study areas to price-cap regulation implicates the need for waiver of certain Commission rules, since there does not exist a defined methodology for conversion from rate-of-return to price-cap in a post-CALLS³ environment. The CALLS proceeding established the existing regulatory framework for price-cap carriers, premised, in part, upon a negotiated industry agreement that included price-cap carrier access reductions of approximately \$2.1 billion and a

¹ Petition at 2.

² While ITTA supports alternatives to traditional cost-of-service regulation for carriers whose needs are best met by that approach, ITTA notes that rate-of-return regulation has enjoyed enormous success in ensuring reasonable rates for consumers in high-cost-to-serve areas, many of which are subject to strong competitive forces.

³ *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service: Sixth Report and Order in CC Dockets No. 96-262 and 94-1, Report and Order in CC Docket No. 94-249, Eleventh Report and Order in CC Docket No. 96-45, FCC 00-193, 15 FCC Rcd 12962, (2000) (CALLS Order), affirmed in part, reversed in part, and remanded in part by Texas Office of Public Utility Counsel v. FCC, 265 F.3d 313 (5th Cir. 2001), on remand, Order on Remand, FCC 03-164, 18 FCC Rcd 14976 (2003).*

target interstate access support (IAS) fund of \$650 million.⁴ The Commission concluded tentatively that entry to the CALLS plan, which “began as a voluntarily negotiated agreement among price-cap carriers and certain IXCs,” was “not designed to be open to new carriers or study areas.”⁵ The Commission emphasized this point when it stated, “[t]hat CALLS was not intended to accommodate additional entry is most clearly indicated by the fact that in adopting the plan, the Commission made no provision for how the universal service component of the CALLS plan would address future expansion to new carriers.”⁶ Commission Rule 47 CFR 61.41(a)(3), however, permits ILECs to elect price-cap regulation. Absent is direction as to how a carrier can elect price-cap regulation in a post-CALLS environment.

The FairPoint Petitioning LECs recommend a course of action that appropriately would provide the carriers with the regulatory flexibility they need in order to respond to marketplace conditions. The proposed process includes the creation of new price cap

⁴ The CALLS plan was crafted to last five years, but the Commission recently directed that it will remain effective until it is replaced. *See Special Access Rates for Price Cap Local Exchange Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services: Order and Notice of Proposed Rulemaking*, WC Docket No. 05-25, RM-10593, FCC 05-18, 20 FCC Rcd 1994, at para. 2 (2005).

⁵ *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service: Report and Order and Second Further Notice of Proposed Rulemaking*, CC Docket Nos. 00-256, 96-45, FCC 04-31, 19 FCC Rcd 4122, at para. 93 (internal citations omitted) (2004) (*MAG Order*).

⁶ *Id.* Moreover, the Commission recently rejected a petition to reconsider the CALLS Order, and affirmed that the rules remain effective. *See, Access Charge Reform; Price Cap Performance Review; Low-Volume Long Distance Users; Federal-State Board on Universal Service: Order*, CC Docket Nos. 96-262, 94-1, 99-249, 96-45, 22 FCC Rcd 11910, DA 97-2968 (2007).

indices (PCIs) for each study area, with average common line, marketing, and residual interconnection charge interstate access elements (CMT) revenues to include subscriber line charge (SLC) revenues and marketing expenses in a manner consistent with other price-cap conversion petitions granted previously by the Commission.⁷ In similar vein, traffic-sensitive and trunking baskets would also be addressed in a manner consistent with the Commission's prior conversion orders.⁸ Finally, special access rates would target authorized rate-of-return levels of 11.25 percent, and then revised to price-cap rate structure,⁹ and the FairPoint Petitioning LECs would continue to receive ICLS support, calculated on a per-line basis and consistent with similar prior Commission price-cap conversion orders.¹⁰ The FairPoint Petitioning LECs note that ICLS support could not increase under the model they propose.

ITTA supports FairPoint Petitioning LECs' Petition for regulatory flexibility. Appropriate flexibility enables carriers to structure products and pricing based on market conditions in a manner that maximizes consumer benefits and company needs. A "one-size-fits all" approach to regulation is not viable in a dynamic marketplace, and ITTA, consistent with prior findings,¹¹ urges the Commission to permit carriers to move forward under the structures most appropriate for each provider.

⁷ Petition at 6 (internal citations omitted).

⁸ Petition at 7 (internal citations omitted).

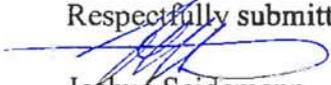
⁹ Petition at 8 (internal citations omitted).

¹⁰ Petition at 9 (internal citations omitted).

¹¹ *See, i.e., Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service; Access Charge Reform for Incumbent Local Exchange*

Certain of ITTA's individual members have, in the past several years, purchased local exchange assets from larger carriers, often in rural markets. ITTA supports adequate flexibility for carriers in order to meet diverse market conditions. In this regard, ITTA supports elimination of the "all-or-nothing" rule;¹² moreover, ITTA supports an option of price-cap election on a study-area basis in order to ensure maximum flexibility for carriers. ITTA members have frequently improved service to rural communities by upgrading aging and neglected facilities and introducing new and innovative service offerings. Regulatory flexibility enables carriers to meet competitive demands, and ITTA accordingly supports FairPoint Petitioning LECs' request for relief, including waiver of applicable Commission rules, that will enable it to respond efficiently to marketplace demands.

Respectfully submitted,


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Carriers Subject to Rate-of-Return Regulation; Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers: Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, FCC 01-304, 16 FCC Rcd 2872, at para 19 (2001) (internal citations omitted) (describing basis for making price-cap regulation optional for most incumbent LECs).

¹² See ,i.e., *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service; Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation: Reply Comments of the Independent Telephone and Telecommunications Alliance*, CC Docket Nos. 00-256, 96-45, 98-77 (filed Mar. 18, 2002).