

OPASTCO

**End of Year Review
2002**

REGULATORY AFFAIRS

**Organization for the Promotion and
Advancement of Small Telecommunications Companies**

OVERVIEW

The following pages list the formal documents that OPASTCO produced during 2002 for consideration in various federal arenas. The list includes comments, letters, and *Ex Partes* OPASTCO filed at the Federal Communications Commission (FCC) and other government agencies.

OPASTCO is a member-run organization with a professional staff dedicated to advancing the small telecommunications carrier agenda that the membership establishes. There are several OPASTCO committees that address the various legislative and regulatory issues facing small telecommunications carriers. In addition to making presentations at the OPASTCO conventions, OPASTCO is also frequently called upon to make presentations to state associations and other industry groups. The Regulatory Affairs Department consists of Stuart Polikoff, Director of Government Relations; Stephen Pastorkovich, Director of Business Development/Senior Policy Analyst and Jeffrey Smith, Policy Analyst.

FCC FILINGS

Federal-State Joint Board on Universal Service CC Docket No. 96-45

Type OPASTCO and NRTA Joint Comments

Date December 20, 2002

Subject(s) OPASTCO and NRTA joint comments in response to the Recommended Decision of the Joint Board regarding the non-rural high-cost support mechanism.

**OPASTCO
NRTA** The Associations agreed with the Joint Board that its recommendations regarding the non-rural high-cost universal service support methodology do not address the high-cost mechanism for rural carriers. As the Joint Board stated, some of the assumptions made in the recommendation may not be appropriate for rural carriers. Therefore, the Associations urged the Commission to maintain the stability for the method of calculating rural carrier high-cost support for at least the five-year period guaranteed by its Rural Task Force (RTF) Order. Furthermore, the distinct differences that exist between rural and non-rural carriers support the continued use of separate high-cost support mechanisms as part of any methodology that the Commission adopts in the future to replace the RTF framework.

AT&T Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges WC Docket No. 02-361

Type OPASTCO Comments

Date December 18, 2002

Subject(s) OPASTCO comments in response to the Petition for Declaratory Rulemaking filed by AT&T.

OPASTCO OPASTCO urged the Commission to deny AT&T's petition, and to declare that interstate phone-to-phone calls that utilize Internet Protocol (IP) technology should be subject to both originating and terminating interstate access charges in order to provide local exchange carriers (LECs) with lawful and adequate compensation for the use of their facilities. LECs must be adequately compensated for the use of their facilities, regardless of the specific technology

used during interstate transport. AT&T's claims that access rates are above cost and inefficient ignores access reform decisions that have resulted in lower, cost-based access rates.

OPASTCO stated that an interexchange carrier's use of IP technology for a phone-to-phone call in no way changes the costs of providing access that are incurred by LECs. Furthermore, end users experience no difference between traditional long distance voice service and voice calls that may be transported via phone-to-phone IP telephony. Therefore, OPASTCO asked the Commission to deny the petition, and find that both originating and terminating access charges apply to phone-to-phone IP calls.

**National Exchange Carrier Association, Inc.
Tariff FCC No. 5, Transmittal No. 952
WC Docket No. 02-356**

Type OPASTCO Comments on Direct Case

Date December 16, 2002

Subject(s) OPASTCO comments in response to the Direct Case filed by the National Exchange Carrier Association (NECA) in the above captioned proceeding.

OPASTCO OPASTCO stated that NECA is justified in increasing the allowance for uncollectibles in its tariff in order to compensate for the higher level of uncollectibles experienced as a result of the financial decline that has occurred in the telecommunications industry. It is essential for the local exchange carriers (LECs) participating in the NECA pools to have reasonable assurance that they will be compensated for the interstate access services they provide to their interexchange carrier (IXC) customers. Therefore, the Commission should affirm the proposed tariff revisions as they are a just, reasonable, and nondiscriminatory method of protecting those LECs participating in the tariff from losses due to nonpayment from financially troubled interstate access customers.

**National Exchange Carrier Association, Inc.
Tariff FCC No. 5, Transmittal No. 951
WC Docket No. 02-340**

Type OPASTCO Comments on Direct Case

Date December 5, 2002

Subject(s) OPASTCO comments in response to the Direct Case filed by the National Exchange Carrier Association (NECA) in the above captioned proceeding.

OPASTCO OPASTCO stated that NECA is justified in incorporating additional criteria for the assessment of security deposits in its tariff due to the increased level of uncollectible revenues reported for the pools. Additional criteria for the assessment of security deposits would be targeted only to those access customers who possess a greater likelihood of being unable to make payment for services rendered. Therefore, the Commission should affirm the proposed tariff revisions as they are a just, reasonable, and nondiscriminatory method of protecting those local exchange carriers (LECs) participating in the tariff from losses due to nonpayment from financially troubled interstate access customers.

**National Exchange Carrier Association, Inc.
Petition to Amend Section 69.104 of the
Commission's Rules
RM No. 10603**

Type OPASTCO Comments

Date December 2, 2002

Subject(s) OPASTCO comments in response to the Petition for Rulemaking filed by the National Exchange Carrier Association (NECA).

OPASTCO OPASTCO supported NECA's request that the Commission revise its rules to permit the assessment of no more than five End User Common Line (EUCL) charges, (i.e. Subscriber Line Charges (SLCs)), on customer-ordered exchange access service provisioned using digital, high-capacity T-1 interfaces. OPASTCO noted that this rule change would more accurately reflect the existing common line costs that NECA pool members incur in the provision of such circuits. It would also ensure that T-1 exchange access service is regulated in the same manner as functionally equivalent derived channel services, such as Primary Rate Interface (PRI) Integrated Services Digital Network (ISDN) services.

**Biennial Review 2002
WC Docket No. 02-313**

Type OPASTCO Reply Comments

Date November 4, 2002

Subject(s) OPASTCO reply comments in response to comments filed regarding the Commission's Biennial Review 2002.

OPASTCO OPASTCO agreed with commenters who urged the Commission to amend its rules so as to allow all carriers not yet capable of local number portability (LNP)

to recover their legitimate ongoing LNP-related costs, regardless of whether or not such carriers participate in an Extended Area Service (EAS) calling plan. Furthermore, the Commission must reconsider its decision to prohibit non-LNP capable carriers from recovering the ongoing network costs associated with LNP through access charges, as this is inconsistent with the rules established for LNP-capable carriers.

OPASTCO agreed with commenters who urged the Commission to make changes to its rules associated with the data filing requirements used for calculating Interstate Common Line Support (ICLS). OPASTCO argued that it is essential for the Commission to: 1) specify that only the six data items actually needed for the computation of ICLS must be provided by eligible rate-of-return (ROR) carriers; 2) authorize the National Exchange Carrier Association (NECA) to make this submission on behalf of those ROR incumbent local exchange carriers (ILECs) participating in the NECA pools; and 3) change the deadline for the submission of the data required for ICLS true-ups to December 31st, so that ROR carriers will have sufficient time to complete annual cost studies.

**Developing a Unified Intercarrier
Compensation Regime**

**Petitions for Declaratory Ruling
Regarding Intercarrier Compensation
for Wireless Traffic
CC Docket No. 01-92**

Type	OPASTCO Reply Comments
Date	November 1, 2002
Subject(s)	OPASTCO reply comments in response to comments filed regarding the Petitions for Expedited Rulemaking filed by T-Mobile USA, Western Wireless, Nextel Communications, and Nextel Partners (CMRS Petitioners) and US LEC regarding intercarrier compensation for wireless traffic.
OPASTCO	OPASTCO indicated that numerous parties opposed the CMRS Petitioners' request for the Commission to declare wireless termination tariffs as unlawful. The Petitioners' request has no legal basis and should therefore be denied. Commenters concurred that while the Telecommunications Act of 1996 makes voluntary negotiations the preferred method for establishing reciprocal compensation arrangements between carriers, it clearly indicates that the responsibility for initiating such negotiations lies with the requesting carrier, not the incumbent local exchange carrier (ILEC) as the Petitioners suggest. Therefore, the Commission should recognize wireless termination tariffs as a

lawful mechanism for rural ILECs to recover the costs of terminating wireless traffic in the absence of a negotiated or arbitrated agreement.

**In the Matter of National Exchange Carrier Association, Inc.
2003 Modification of Average Schedule Universal Service Formulas
DA 02-2626**

Type OPASTCO Comments

Date October 28, 2002

Subject OPASTCO comments regarding NECA's proposed modifications to the average schedule universal service formulas for 2003.

OPASTCO OPASTCO stated that the National Exchange Carrier Association's (NECA) proposed Local Switching Support (LSS) formula and Universal Service Fund (USF) expense adjustment formula both satisfy Parts 36, 54, and 69 of the Commission's rules. Therefore, OPASTCO recommended that the Telecommunications Access Policy Division promptly approve the formulas so that small average schedule companies can receive reasonably accurate support payments.

**Petition by the Colorado Public Utilities Commission,
Pursuant to 47 C.F.R. § 54.207(c), for Commission Agreement
in Redefining the Service Area of
Delta County Tele-Comm, Inc., a Rural Telephone Company
CC Docket No. 96-45**

Type OPASTCO Reply Comments

Date October 25, 2002

Subject(s) OPASTCO reply comments in support of Delta County Tele-Comm, Inc. in explaining why the Commission should not concur with the Colorado PUC's proposal to fragment Delta's existing study area.

OPASTCO OPASTCO supported those commenters who urged the Commission to reject the Colorado PUC's proposal to fragment Delta's study area into six service areas at the wire center level for eligible telecommunications carrier (ETC) designations. OPASTCO agreed that the Colorado PUC rule mandating redefinition of the incumbent ETC's study area into service areas based on their support disaggregation plans is in conflict with the Telecommunications Act of 1996. Furthermore, OPASTCO recommended that the Commission dismiss the Colorado PUC's request until it considers requests for ETC designation and compiles and evaluates an adequate record to fulfill its obligation not to designate

additional ETCs in any rural carrier's study area prior to finding that the designation is in the public interest.

**Developing a Unified Inter-carrier
Compensation Regime**

**Petitions for Declaratory Ruling
Regarding Inter-carrier Compensation
for Wireless Traffic
CC Docket No. 01-92**

Type	OPASTCO Comments
Date	October 18, 2002
Subject(s)	OPASTCO comments in response to the Public Notice, which requested comment on the Petitions for Expedited Rulemaking filed by T-Mobile USA, Western Wireless, Nextel Communications, and Nextel Partners (CMRS Petitioners) and US LEC regarding inter-carrier compensation for wireless traffic.
OPASTCO	OPASTCO demonstrated in these comments that the CMRS Petitioners' request for the Commission to declare wireless termination tariffs to be unlawful has no legal basis and should therefore be denied. While the Telecommunications Act of 1996 does establish voluntary negotiations as the preferred method for establishing reciprocal compensation arrangements between carriers, it clearly indicates that the responsibility for initiating such negotiations lies with the requesting carrier, not the ILEC as the Petitioners suggest. Therefore, the Commission should affirm that wireless termination tariffs are lawful in the absence of negotiated or arbitrated reciprocal compensation agreements, as they are nothing more than a means to allow rural ILECs to obtain the just and reasonable rates for interconnection called for by the 1996 Act. OPASTCO also recommended that the Commission affirm that all traffic between LECs and CMRS providers that is transmitted through an IXC is subject to the access charge regime.

**Petition of the State Independent Alliance and the
Independent Telecommunications Group
for a Declaratory Ruling that the
Basic Universal Service Offering Provided
by Western Wireless in Kansas is Subject
to Regulation as Local Exchange Service**

**Independents' Reconsideration Petition
WT Docket No. 00-239**

Type OPASTCO Comments

Date October 16, 2002

Subject(s) OPASTCO comments filed in response to the Kansas Independents' Petition for Reconsideration and Clarification, which seeks reconsideration of the Commission's decision that Western Wireless' Basic Universal Service (BUS) offering is a mobile rather than fixed offering and therefore classified as Commercial Mobile Radio Service (CMRS). The Petition also seeks clarification regarding whether Kansas is prohibited from establishing equal access as a condition of receiving state universal service funds.

OPASTCO OPASTCO supported the Independents' Petition for Reconsideration and Clarification. Western Wireless' BUS offering is a fixed service and should not be classified as CMRS. The Independents' Petition correctly explained that the BUS terminal unit does not conform with the statutory definition of a mobile station as it does not "ordinarily" move, using the common usage definition of the word. Furthermore, the classification of BUS as an "incidental" service that uses the same network as another mobile service does not allow the Commission to ignore the statutory definition of a "mobile station" and regulate a fixed service as mobile.

Finally, regardless of the Commission's decision on classification of the BUS offering, it is important that it affirm the right of states to support equal access and other additional services through a voluntary state universal service support program. OPASTCO argued that conditioning the receipt of support from a voluntary universal service program on the provision of equal access or any other service, is in no way equivalent to a general requirement imposed upon a CMRS carrier.

**Petition by the Colorado Public Utilities Commission,
Pursuant to 47 C.F.R. § 54.207(c), for Commission Agreement
in Redefining the Service Area of
CenturyTel of Eagle, Inc. a Rural Telephone Company
CC Docket No. 96-45**

Type OPASTCO, CTA, NRTA, and Western Alliance Joint Comments

Date September 27, 2002

Subject(s) OPASTCO, CTA, NRTA, and Western Alliance joint comments in support of CenturyTel of Eagle, Inc. in explaining why the Commission should not concur with the Colorado PUC’s proposal to fragment Eagle’s existing study area.

OPASTCO The Associations supported CenturyTel of Eagle’s (Century) petition to the FCC regarding the Colorado PUC’s proposal to fragment Century’s Eagle study area into 53 service areas at the wire center level for eligible telecommunications carrier (ETC) designations. The Associations argued that concurrence in the Colorado PUC rule mandating redefinition of the incumbent ETC’s study areas into service areas based on their support disaggregation plans would likely serve as a precedent for similar fragmentation of other rural telephone company service areas, in Colorado and elsewhere. Such a situation would ultimately be to the detriment of rural telephone companies and their customers.

Finally, the Associations recommended that the Commission dismiss the Colorado PUC’s request until it considers requests for ETC designation and compiles and evaluates an adequate record to fulfill its obligation not to designate additional ETCs in any rural carrier’s study area prior to finding that the designation is in the public interest. After finding that an additional ETC is in the public interest, the PUC must then obtain a Joint Board recommendation and the FCC’s concurrence in partitioning the study area into smaller service areas.

**National Telecommunications Cooperative Association
Request for Amendment of the Commission’s Rules
to Define “Captured” and “New” Subscriber Lines
for Purposes of Receiving Universal Service Support
RM No. 10522**

Type OPASTCO Comments

Date September 9, 2002

Subject(s) OPASTCO comments in response to the Public Notice, which requested comment on NTCA’s Petition for Expedited Rulemaking concerning the definition of “captured” and “new” subscriber lines for the purposes of receiving USF support.

OPASTCO OPASTCO noted that the Commission’s Wireline Competition Bureau has indicated that it is presently preparing a Notice, to be released later this year, regarding issues associated with the portability of universal service fund support. Consequently, the issues raises within the NTCA Petition would be most appropriately addressed as part of this future proceeding. OPASTCO indicated that such an approach would allow all the issues associated with USF portability to be considered together.

**Federal-State Joint Board on
Universal Service
CC Docket No. 96-45**

**ACS of Fairbanks, Inc.
Petition for Declaratory Ruling and Other Relief
Pursuant to Section 254(e) of the Communications Act
DA 02-183**

Type OPASTCO Comments

Date September 3, 2002

Subject(s) OPASTCO comments filed in response to ACS of Fairbanks, Inc.’s Petition for Declaratory Ruling requesting the Commission to suspend high-cost loop support to competitive eligible telecommunications carriers (CETCs) whose actual loop costs lie below the FCC high-cost standard for such support.

OPASTCO OPASTCO supported the ACS Petition and indicated that it illustrates how providing a CETC with incumbent local exchange carrier (ILEC)-based universal service support provides the competitor with a windfall of unneeded support. As ACS noted, GCI (a CETC in the Fairbanks service area) presently receives the benefit of high-cost loop support based on ACS’ average loop cost, even though the state-mandated price of the loops it leases as an unbundled network element (UNE) is below the high-cost threshold.

OPASTCO agreed with ACS that since GCI’s loop costs do not reach the required FCC threshold for high-cost loop support, then it cannot be using the support it receives for its intended purpose – to support high-cost loops, as required by Section 254(e) of the Telecommunications Act of 1996. OPASTCO concurred with ACS that, in order to prevent this situation from occurring, the Commission must declare that when a CETC’s loop costs are known and documented, high-cost loop support should be based on the CETC’s own per-line costs, rather than on those of the ILEC.

**Annual Assessment of the Status of
Competition in the Market for the
Delivery of Video Programming
MB Docket No. 02-145**

Type OPASTCO Reply Comments

Date August 30, 2002

Subject(s) OPASTCO reply comments in response to the June 2002 Notice of Inquiry (NOI), which initiated an examination of the status of competition in the market for the delivery of video programming.

OPASTCO OPASTCO noted that high legal and regulatory costs, unequal treatment by content providers, and predatory pricing by large cable companies have displaced technological limitations as the primary barriers to deployment by small carriers. In order to improve this situation, the Commission should take action to reduce the burdens of some inappropriate franchise requirements that have been enforced by state and local authorities.

In addition to high regulatory costs, the discriminatory practices of content providers also hinder the ability of small, rural carriers to deliver video services. Without access to programming content under equitable terms and conditions, small carriers cannot fulfill consumer demand. Lastly, where small video providers enter into markets currently served by large incumbent cable companies, predatory pricing actions by large companies can also severely impair the small company's ability to serve consumers.

**Appropriate Framework for Broadband Access to
the Internet over Wireline Facilities
CC Docket No. 02-33**

Universal Service Obligations of Broadband Providers

**Computer III Further Remand Proceedings:
Bell Operating Company Provision of Enhanced Services;
1998 Biennial Regulatory Review – Review of Computer III
and ONA Safeguards and Requirements
CC Dockets Nos. 95-20, 98-10**

Type OPASTCO Reply Comments

Date July 1, 2002

Subject OPASTCO reply comments in response to the Notice of Proposed Rulemaking (NPRM) regarding 1) the appropriate regulatory classification of wireline

broadband Internet access services, and 2) the universal service obligations of broadband Internet access service providers.

OPASTCO OPASTCO noted that the record in this proceeding supports the need to preserve the ability of rural incumbent local exchange carriers (ILECs) to participate in pools for their provision of digital subscriber line (DSL)-based services. Commenters explained that the risk sharing and cost averaging benefits provided by pooling are what allow many high-cost rural ILECs to offer advanced services to their customers at reasonable rates. Therefore, should the Commission decide to reclassify wireline broadband Internet access, it must preserve pooling and avoid a “one size fits all” approach to its regulation of such services.

The Association also noted that commenters supported expanding the base of contributors to the universal service fund to include all facilities-based broadband Internet access providers. Commenters cited current market data demonstrating significant growth in broadband Internet access services over platforms that do not presently contribute to the fund, with no sign of abatement. OPASTCO also pointed out that as subscribership to broadband Internet access grows, so too does the inequity of requiring only wireline telecommunications carriers to contribute on the basis of their broadband services. Therefore, the Commission should require all facilities-based broadband Internet access providers to contribute equitably to the fund prior to or concurrent with any decision made in the Universal Service Contribution Methodology proceeding.

**Federal-State Joint Board on
Universal Service
CC Docket No. 96-45**

**1998 Biennial Regulatory Review -
Streamlined Contributor Reporting
Requirements Associated with Administration
of Telecommunications Relay Service, North
American Numbering Plan, Local Number
Portability, and Universal Service Support
Mechanisms
CC Docket No. 98-171**

**Telecommunications Services for Individuals
with Hearing and Speech Disabilities, and the
Americans with Disabilities Act of 1990
CC Docket No. 90-571**

**Administration of the North American
Numbering Plan and North American
Numbering Plan Cost Recovery Contribution
Factor and Fund Size
CC Docket No. 92-237
NSD File No. L-00-72**

**Number Resource Optimization
CC Docket No. 99-200**

**Telephone Number Portability
CC Docket No. 95-116**

**Truth-in-Billing and Billing Format
CC Docket No. 98-170**

Type OPASTCO Written Statement

Date June 18, 2002

Subject(s) OPASTCO written statement for participation in the Public Meeting held regarding the Reform of the Universal Service Contribution Methodology.

OPASTCO While OPASTCO is supportive of a flat-fee contribution mechanism, it does not endorse the “connection”-based methodology proposed in the recent Further Notice of Proposed Rulemaking (FNPRM). It was noted that the connection-based proposal is deficient, in that it fails to comply with the Telecommunications Act of 1996. Any contribution mechanism cannot lawfully exempt the “interstate” operations of the interexchange carriers (IXCs). Any flat-fee monthly

contribution assessment mechanism must require an “equitable and nondiscriminatory” share of contributions from “every” interstate carrier.

OPASTCO indicated that the end-user connection proposal is also deficient, in that it fails to include all facilities-based broadband Internet access providers as contributors. The public interest demands that the Commission exercise its permissive authority to require all facilities-based broadband Internet access providers to contribute

OPASTCO also argued that the FNPRM’s proposal for capacity-based assessments on multi-line business customers are administratively unworkable and may be inequitable and unpredictable for such business customers. Lastly, OPASTCO stated that the commission should bifurcate the contribution assessments for the high-cost program from the schools and libraries and rural health care programs.

Presubscribed Interexchange Carrier Charges
CC Docket No. 02-53
CCB/CPD File No. 01-12
RM-10131

Type	OPASTCO and NECA Joint Comments
Date	June 14, 2002
Subject	OPASTCO and NECA joint comments in response to the March 2002 Notice of Proposed Rulemaking (NPRM), which initiated an examination of the present safe harbor for presubscribed interexchange carrier-change (PIC) charges.
OPASTCO NECA	OPASTCO and NECA noted that rural LECs still process the vast majority of PIC-changes on a manual basis and, in all likelihood will continue to do so for the foreseeable future. The Associations argued that, as a result, the costs to rural LECs of providing PIC-change service today are not significantly different than the costs that initially formed the basis for the \$5 safe harbor, due to the absence of significant automation. Therefore, no change is warranted, and the Commission should retain the \$5 safe harbor for PIC-changes for rural LECs.

**(MAG) Plan for Regulation of Interstate Services
of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers
CC Docket No. 00-256**

**Federal-State Joint Board Universal Service
CC Docket No. 96-45**

**Public Information Collection
OMB Control No. 3060-0972**

Type	OPASTCO, NRTA, NTCA, USTA, and Western Alliance Joint Comments
Date	May 17, 2002
Subject	OPASTCO, NRTA, NTCA, USTA, and Western Alliance joint comments in response to the March 2002 Public Notice regarding the data collection burdens imposed by the Commission's Multi-Association Group (MAG) Plan Order.
OPASTCO	The Associations recommended that extension of OMB approval for the MAG Order data collection be limited to forms and processes that would impose no additional burdens over those previously specified by the Commission. The Associations also noted that continued reliance on the National Exchange Carrier Association (NECA) for Interstate Common Line Support (ICLS) cost and revenue data, as well as line count information, would allow the Commission to accomplish the goals of the MAG Order and reduce administrative burdens for rate-of-return incumbent local exchange carriers (ILECs). This process also would continue to ensure that data submitted for ICLS is consistent with forecasts used for tariff purposes.
NRTA	
NTCA	
USTA	
Western	
Alliance	

**Federal-State Joint Board on
Universal Service
CC Docket No. 96-45**

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Factor and Fund Size
CC Docket No. 92-237
NSD File No. L-00-72**

**Number Resource Optimization
CC Docket No. 99-200**

**Telephone Number Portability
CC Docket No. 95-116**

**Truth-in-Billing and Billing Format
CC Docket No. 98-170**

Type OPASTCO and NRTA Joint Reply Comments

Date May 13, 2002

Subject OPASTCO and NRTA joint reply comments in response to the Further Notice of Proposed Rulemaking (FNPRM) regarding the universal service contribution assessment methodology.

**OPASTCO
NRTA** The Associations noted that numerous commenters have provided compelling legal and policy reasons why the Commission must not adopt the FNPRM's end-user connection-based proposal in its current form. Furthermore, a number of commenters agreed with OPASTCO and NRTA that the Commission should

consider a flat-rated contribution method because of the need to restore stability and sustainability to the funding mechanism, but that significant changes are required to develop a flat-rate system that can pass legal and policy muster.

The Associations disputed the attempts by the Coalition for Sustainable Universal Service to justify the end-user connection proposal by misstating the plain language of the 1996 Act. OPASTCO and NRTA pointed out that the Telecommunications Act's mandate is that "every carrier that provides interstate telecommunications services shall contribute," unless its telecommunications activities are limited to a specified extent. To fashion a legal flat-rate contribution assessment plan, the Commission must restore the IXCs to the list of required contributors and find a contribution metric logically connected to the provision of state-to-state telecommunications.

The Associations also noted that most parties agreed that the Commission must expand the contribution requirement to all interstate telecommunications providers, including facilities-based broadband Internet access providers over all platforms. Parties have explained that only the widest possible coverage can make the fund sustainable, sufficient, and competitively neutral. Therefore, the Commission should not wait and allow arbitrage to skew the competitive market and technology decisions in this time of rapid broadband growth.

The Associations also noted that, contrary to the proponents for capacity-based contribution assessments for multi-line business connections, a capacity-based metric will neither minimize administrative burdens and complexity nor ensure that USF contributions do not distort customer choices. Lastly, several commenters suggested bifurcating the assessments to reflect fundamental differences between high-cost rural support and subsidies for school, library, and health care facilities. As the record has established, customers should know what support is going for what purpose.

**Numbering Resource Optimization
CC Docket No. 99-200**

**Implementation of the Local Competition
Provisions of the Telecommunications Act
of 1996
CC Docket No. 96-98**

**Telephone Number Portability
CC Docket No. 95-116**

Type OPASTCO, NECA, and NRTA Joint Comments

Date May 6, 2002

Subject OPASTCO, NECA, and NRTA joint comments in response to the Further Notices of Proposed Rulemaking (FNPRM) regarding whether a reinstatement of the original Local Number Portability (LNP) requirement for all local exchange carriers (LECs) in the largest 100 Metropolitan Statistical Areas (MSAs) is warranted.

OPASTCO The Associations argued that the Commission should continue to limit LNP
NECA implementation in the 100 largest MSAs to switches for which a competing
NRTA carrier has made a request for number portability. The Associations also indicated that the Commission should not require thousand-block number pooling (TBNP) implementation in switches that are not LNP capable. Requiring rural carriers to implement either LNP or TBNP without the presence of competition in their service areas would not benefit either competition or number resource optimization and would serve no purpose other than to require rural carriers to expend funds needlessly.

**Appropriate Framework for Broadband Access to
the Internet over Wireline Facilities
CC Docket No. 02-33**

Universal Service Obligations of Broadband Providers

**Computer III Further Remand Proceedings:
Bell Operating Company Provision of Enhanced Services;
1998 Biennial Regulatory Review – Review of Computer III
and ONA Safeguards and Requirements
CC Dockets Nos. 95-20, 98-10**

Type OPASTCO Comments

Date May 3, 2002

Subject OPASTCO comments in response to the Notice of Proposed Rulemaking (NPRM) regarding 1) the appropriate regulatory classification of wireline broadband Internet access services, and 2) the universal service obligations of broadband Internet access service providers.

OPASTCO Regardless of the outcome of this proceeding, OPASTCO indicated that it believes that the risk-sharing and cost-recovery attributes of pools are vital to many rural carriers' ability to provide affordable wireline broadband Internet access. If DSL-based services were to be excluded from the pooling process, this would hinder the deployment of wireline broadband Internet access in many rural areas, contrary to the Commission's goals. Further, OPASTCO argued that the Commission must not forfeit its ability to support broadband Internet access service through universal service should such support become appropriate in the future.

OPASTCO also noted that the Commission should continue to permit all loop-related costs to be allocated entirely to voice telecommunications services. This would help to keep advanced services affordable for high-cost rural subscribers. Additionally, OPASTCO asserted that if the Commission determines that wireline broadband Internet access service is an “information service,” it must ensure that any deregulatory benefits are not offset by new regulations from states. Given the predominantly interstate nature of Internet access services, state regulations should be avoided.

Moreover, OPASTCO indicated that the Commission should broaden the base of universal service contributors to include all facilities-based broadband Internet access providers. Internet substitution for traditional interstate telecommunications services continues to grow at a rapid pace and the majority of the traffic is handled by providers that presently are not required to contribute to the fund. The inclusion of all facilities-based broadband providers as contributors would ensure a sustainable contribution base into the future. It would also ensure that contribution requirements are equitable and nondiscriminatory among all broadband providers.

**Review of Regulatory Requirements
for Incumbent LEC Broadband
Telecommunications Services
CC Docket No. 01-337**

Type	OPASTCO Reply Comments
Date	April 22, 2002
Subject	OPASTCO reply comments in response to the Notice of Proposed Rulemaking (NPRM) regarding the review of the regulatory requirements imposed upon ILECs for their broadband telecommunications offerings.
OPASTCO	Regardless of the outcome of this proceeding, OPASTCO indicated that it is critical that small ILECs continue to have the ability to participate in a viable pool, which would enable them to provide DSL-based service at reasonable rates. OPASTCO argued that, without the cost-sharing and risk-spreading attributes of pools, many small ILECs will be unable to provide advanced services to their rural consumers, an outcome that would be at odds with both the Commission’s goals and those of the Telecommunications Act of 1996.

**Federal-State Joint Board on
Universal Service
CC Docket No. 96-45**

**1998 Biennial Regulatory Review -
Streamlined Contributor Reporting
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**Telecommunications Services for Individuals
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Americans with Disabilities Act of 1990
CC Docket No. 90-571**

**Administration of the North American
Numbering Plan and North American
Numbering Plan Cost Recovery Contribution
Factor and Fund Size
CC Docket No. 92-237
NSD File No. L-00-72**

**Number Resource Optimization
CC Docket No. 99-200**

**Telephone Number Portability
CC Docket No. 95-116**

**Truth-in-Billing and Billing Format
CC Docket No. 98-170**

Type	OPASTCO and NRTA Joint Comments
Date	April 22, 2002
Subject	OPASTCO and NRTA joint comments in response to the Further Notice of Proposed Rulemaking (FNPRM) regarding universal service contribution assessment methodology.
OPASTCO NRTA	In these comments, the Associations indicated that they are supportive of the Commission exploring a flat-fee monthly contribution assessment mechanism; however, they did not endorse the end-user “connection”-based assessment methodology proposed in the Further Notice of Proposed Rulemaking (FNPRM).

OPASTCO and NRTA stated that any flat-fee mechanism must require truly equitable and nondiscriminatory contributions from all interstate interexchange carriers (IXCs) as well as all facilities-based broadband Internet access providers. The end-user connection-based system proposed in the FNPRM fails on both counts and should be rejected.

Imposing equitable contribution requirements on the broadest possible base of carriers would be the best way to ensure the long-term viability of the contribution mechanism. Such an approach would also minimize the possibility of placing an overly burdensome support obligation on any one group of carriers or end-users and creating arbitrage opportunities from a competitively biased contribution policy.

The Associations also argued that the Commission should abandon its unworkable capacity-based proposal for multi-line business connections. Additionally, the FCC should separate the assessments for the high-cost program from the schools and libraries and rural health care programs so that carriers and customers are made aware of how much they are contributing to each.

**Federal-State Joint Board Universal Service
CC Docket No. 96-45**

Type OPASTCO and NRTA Joint Comments

Date April 10, 2002

Subject OPASTCO and NRTA joint comments in response to the Notice of Proposed Rulemaking (NPRM) regarding issues from the Ninth Report and Order in CC Docket No. 96-45 remanded by the 10th Circuit Court of Appeals.

**OPASTCO
NRTA** In these comments, NRTA and OPASTCO emphasized the need for the Commission not to prejudge or prejudice decisions about the nature of support mechanisms or adequate levels of federal support for rural carriers in this proceeding concerning federal universal service programs for non-rural carriers. Most of the issues that the Commission must resolve in this proceeding have significantly different implications and most of the decisions will have significantly different impacts when applied to carriers with the primarily urban characteristics of non-rural providers than they would if applied to rural carriers. The Associations pointed out that rural carrier issues are not before the Commission here.

An exception to the significant areas of difference governs the question of defining “reasonably comparable” because the statute contemplates a nationwide, urban to rural comparison. Within-state rural to urban comparisons are not what the federal funding mechanisms are intended to address. In addition, the

significant differences between non-rural carriers, rural carriers, and competitive carriers totally preclude any across-the-board measure of what constitutes “sufficient” universal service support. Separate determinations for what is sufficient for each group must be made. Finally, the Commission should not add significant burdens to states that will need to supply explicit support as competition erodes implicit intrastate support.

**Federal-State Joint Board Universal Service
CC Docket No. 96-45**

Type OPASTCO and NRTA Support for Motion for Extension of Time

Date April 5, 2002

Subject OPASTCO and NRTA joint Support for Motion for Extension of Time regarding the Notice of Proposed Rulemaking (NPRM), released February 15, 2002, concerning issues from the Commission’s Ninth Report and Order on Universal Service.

OPASTCO The Associations supported the United States Telecom Association’s (USTA)
NRTA Motion for Extension of Time filed on April 2, 2002. USTA’s motion requested a 45-day extension of time to file both comments and reply comments on the NPRM concerning issues from the Ninth Report and Order in CC Docket No. 96-45 remanded by the U.S. Court of Appeals for the 10th Circuit. The Associations noted that the close proximity of the comment and reply due dates for this and several other proceedings regarding universal service threaten full and meaningful participation in each, particularly for small associations.

**Multi-Association Group (MAG) Plan for Regulation of Interstate Services
of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers
CC Docket No. 00-256**

**Federal-State Joint Board Universal Service
CC Docket No. 96-45**

**Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of
Return Regulation
CC Docket No. 98-77**

**Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange
Carriers
CC Docket No. 98-166**

Type OPASTCO, NRTA, and USTA Joint Reply Comments

Date March 18, 2002

Subject OPASTCO, NRTA, and USTA joint reply comments in response to the Further Notice of Proposed Rulemaking (FNPRM) included with the above captioned *Order*, released November 8, 2001.

OPASTCO The Associations urged the Commission to make incentive regulation optional
NRTA for all rate-of-return (ROR) carriers and commonly owned groups of ROR
USTA carriers on a study area-by-study area basis, and also to provide ROR carriers with immediate pricing flexibility. The Associations noted that the record compellingly demonstrated that a study area should be able to adopt incentive regulation when the actual conditions in that area support a change and when customers will benefit. Comments that supported mandatory incentive regulation for some or all ROR ILECs have failed to justify a requirement for any carrier or holding company, much less any rational basis for imposing incentive regulation on the various ROR subsets for which they demanded mandatory application.

The Associations concurred with those commenters who noted that immediate pricing flexibility is also essential, so that ROR carriers may adequately respond to the increasing threat and presence of competition within their respective rural service areas. The record in this proceeding has indicated that, since competition continues to spread to all areas, pricing flexibility is necessary for all carriers before customers are hurt by competitive entry. Therefore, the provision of pricing flexibility to ROR carriers should not be preconditioned on a system of restrictive and unworkable competitive triggers.

Moreover, the Associations noted the importance of the Commission structuring any new regulatory regime so as to allow carriers to elect both incentive regulation and pricing flexibility within the National Exchange Carrier Association (NECA) pools. NECA has stated that it is ready and able to implement incentive options within the pools; commenters have shown that maintaining healthy pools is sound national policy.

National Exchange Carrier Association, Inc.
Proposed Modifications to the 2002-03
Interstate Average Schedule Formulas
CCB/CPD 02-04

Type OPASTCO Comments

Date March 11, 2002

Subject(s) OPASTCO comments regarding NECA's proposed modifications to the average schedule formulas for the period July 1, 2002, through June 30, 2003.

OPASTCO OPASTCO stated that the Competitive Pricing Division should promptly approve NECA's proposed modifications for July 1, 2002, and that they should also consider the need for transitional support for any company that demonstrates a hardship from the settlement changes. OPASTCO believes that NECA's proposed average schedule formulas would simulate the disbursements that would be received by a representative cost company.

**Multi-Association Group (MAG) Plan for Regulation of Interstate Services
of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers
CC Docket No. 00-256**

**Federal-State Joint Board Universal Service
CC Docket No. 96-45**

**Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of
Return Regulation
CC Docket No. 98-77**

**Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange
Carriers
CC Docket No. 98-166**

Type OPASTCO, NRTA, and USTA Reply Comments on Petitions for Reconsideration

Date February 14, 2002

Subject OPASTCO, NRTA, and USTA joint comments in response to Petitions for Reconsideration of the above captioned *Order*.

OPASTCO The Associations opposed the baseless reconsideration demands of both the
NRTA Competitive Universal Service Coalition (CUSC) and the Rural Consumer Choice

USTA (RCC) Coalition. CUSC's proposal to disallow limited SLC deaveraging and ICLS disaggregation was based on the mistaken assumption that ROR ILECs would be capable of manipulating these tools. Also, CUSC has not supported its call for a cap on the new ICLS mechanism with any facts to demonstrate why the fund would be excessive. Furthermore, the Commission was correct to reject CUSC's request for the immediate termination of long term support (LTS) upon the availability of ICLS funding. Such a move would circumvent the Commission's ongoing proceeding regarding the continuation of LTS.

The Associations indicated that the RCC Coalition's proposal to fund the difference between rural and non-rural carriers' traffic sensitive access rates through universal service funding would result in unlawful, excessive support.

Additionally, the RCC Coalition’s argument for reallocating to common line the portion of the TIC reassigned by the MAG Order has no merit. Lastly, the Associations supported CenturyTel’s request to postpone reallocating line-side port and TIC costs for ILECs operating in states that mirror interstate access charges. The Associations also recommended that the Commission open a separate proceeding to address the universal service portability issues raised by several commenters.

**Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers
CC Docket No. 00-256**

**Federal-State Joint Board Universal Service
CC Docket No. 96-45**

**Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of Return Regulation
CC Docket No. 98-77**

**Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers
CC Docket No. 98-166**

Type	OPASTCO, NRTA, and USTA Joint Comments
Date	February 14, 2002
Subject	OPASTCO, NRTA, and USTA joint comments in response to the Further Notice of Proposed Rulemaking (FNPRM) included with the above captioned <i>Order</i> , released November 8, 2001.
OPASTCO NRTA USTA	The Associations noted that adopting an incentive regulation plan that is optional for all ROR carriers should be the Commission’s most important principle. The Associations expressed their confidence that suitable optional incentive regulation can be designed to both encourage investment and preserve service quality, while maintaining ROR regulation for areas that cannot accommodate major change. Furthermore, since parent company affiliation does not alter the challenges faced by each individual small or rural study area, any incentive plan must be available on a study area basis. Also, the Associations cautioned that any new regulatory approaches should not jeopardize existing options, such as the average schedule process, that have successful track records for rural ILECs.

The Associations also urged the Commission to immediately grant pricing flexibility to ROR ILECs, so that high-cost, rural customers are not subjected to the detrimental impacts of inequitable pricing constraints. It is crucial for ROR

ILECs to have pricing flexibility, so that they may be adequately prepared for competition within their respective service areas. Without such flexibility, the unique operating environments of rural service areas only serve to exacerbate the impact of competition on these carriers. The adoption of geographic rate deaveraging, volume and term discounts, and contract pricing would offer ROR ILECs the flexibility necessary to adjust rates, in line with capabilities of potential competitors.

The Associations also noted that even after the MAG access reforms, the value of sharing risks and administrative costs in healthy NECA pools will continue to be important to small carriers. Therefore, it is essential that incentive regulation and pricing flexibility must be workable in a pooling context. Being that NECA has indicated that both incentive regulation and pricing flexibility can be accommodated within the pools, carriers should not be required to exit the pools in order to obtain these options.

**Performance Measures and Standards for Interstate Special Access Services
CC Docket No. 01-321**

**Petition of US West, Inc., for a Declaratory Ruling Preempting State Commission
Proceedings to Regulate US West's Provision of Federally Tariffed Interstate Services
CC Docket No. 00-51**

**Petition of Association for Local Telecommunications Services for Declaratory Ruling
CC Docket Nos. 98-147, 96-98, 98-141**

**Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the
Communications Act of 1934, as amended
CC Docket No. 96-149**

**2000 Biennial Regulatory Review – Telecommunications Service Quality Reporting
Requirements
CC Docket No. 00-229**

**AT&T Corp. Petition to Establish Performance Standards, Reporting Requirements, and
Self-Executing Remedies Needed to Ensure Compliance by ILECs with Their Statutory
Obligations Regarding Special Access Services
RM 10329**

Type OPASTCO, NECA, and NRTA Joint Comments

Date January 22, 2002

Subject Joint comments in response to the Notice of Proposed Rulemaking (NPRM) in the above captioned Proceeding, released November 19, 2001.

OPASTCO The Associations stated that the Commission should exempt rural telephone
NECA companies from mandatory special access performance standards. The
NRTA Associations noted that ILECs have only a small share of the special access
market, and are not the focus of concern regarding special access performance.
Further, the existing section 208 complaint process is adequate to handle any
potential issues that may arise regarding rural ILEC provisioning of special access
services. The Associations also indicated that burdensome measurement and
reporting requirements would impose a significant expense on rural carriers, and
could not be justified.

**Performance Measurements and Standards for Unbundled Network Elements
and Interconnection
CC Docket No. 01-318**

**Performance Measurements and Reporting Requirements for Operations Support
Systems, Interconnection, and Operator Services and Directory Assistance
CC Docket No. 98-56**

**Deployment of Wireline Services Offerings Advanced Telecommunications Capability
CC Docket No. 98-147**

**Petition of Association for Local Telecommunications Services for Declaratory Ruling
CC Docket Nos. 98-147, 96-98, 98-141**

Type OPASTCO, NECA, and NRTA Joint Comments

Date January 22, 2002

Subject Joint comments in response to the Notice of Proposed Rulemaking (NPRM)
in the above captioned Proceeding, released November 19, 2001.

OPASTCO The Associations stated that the Commission should exempt rural ILECs from
NECA mandatory performance standards for the provisioning of UNEs and
NRTA interconnection agreements. Even when rural markets are finally open to local
competition, the vast majority of ILECs will lack the mechanized interfaces
necessary to perform the proposed measurements. The Associations stated that
rural ILECs should not be subjected to performance measurement and reporting
requirements, of questionable benefit, that would be costly and burdensome for
them to implement.

Jurisdictional Separations Reform and Referral to the Federal-State Joint Board

Options for Comprehensive Separations Reform CC Docket No. 80-286

Type OPASTCO, NECA, NRTA, and NTCA Joint Comments

Date January 22, 2002

Subject Joint comments in response to the “Glide Path” policy paper, released by the state members of the Separations Joint Board, which proposes options for future separations reform.

OPASTCO The Associations stated that the proposals articulated within the “Gilde Path”
NECA paper raised profound issues for telecommunications policymakers and should be
NRTA approached with great caution. The Associations also indicated that separations
NTCA reform must not damage the progress that has been made in bringing telephone service to rural areas. Additionally, future reform efforts must not create excessive uncertainty, which would hamper future infrastructure investment. As such, the Associations recommended that the Separations Joint-Board establish a working relationship with the industry to further define reform options and also to perform an in-depth analysis of all reform options.

Implementation of the Cable Television Consumer Protection and Competition Act of 1992

Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act

Sunset of Exclusive Contract Prohibition

CS Docket No. 01-290

Type OPASTCO Reply Comments

Date January 7, 2002

Subject OPASTCO reply comments in response to comments filed in the above captioned proceeding.

OPASTCO OPASTCO stated that, based on the experiences of its members, it believed that nondiscriminatory access to programming content is crucial to small companies that offer video services to rural consumers. Therefore, OPASTCO concurred with commenters who urged the Commission to retain the prohibition against

exclusive contracts, as provided under the Television Consumer Protection and Competition Act of 1992.

EX-PARTE MEETINGS

- Date** October 2, 2002
- Subject** On October 1, 2002, representatives from the Commission's Office of General Counsel met with representatives from OPASTCO, NRTA, and NTCA to discuss the legal and operational issues surrounding various proposals for reforming the universal service contribution methodology. The Associations indicated that the proposal put forward by the Coalition for Sustainable Universal Service (CoSUS) does not comply with the 1996 Act.
- Attendance** Sharon Diskin (FCC)
Linda Kinney (FCC)
Sonja Rifkin (FCC)
Debra Weiner (FCC)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)
Margot Humphrey (NRTA)
Marie Guillory (NTCA)
- Date** September 3, 2002
- Subject** On September 3, 2002, representatives from the Wireline Competition Bureau met with representatives from OPASTCO and NRTA to discuss the legal and operational issues surrounding various proposals for reforming the universal service contribution methodology. The Associations stated that the proposal put forward by Coalition for Sustainable Universal Service (CoSUS) does not comply with the 1996 Act. The Associations also noted that the joint proposal of SBC and BellSouth is very similar to the recommendations made by NRTA and OPASTCO in its comments in this proceeding.
- Attendance** Eric Einhorn (FCC)
Paul Garnett (FCC)
Diane Law Hsu (FCC)
Narda Jones (FCC)
Jon Secrest (FCC)
Vickie Byrd (FCC)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)
Margot Humphrey (NRTA)

Date August 22, 2002

Subject On August 21, 2002, representatives from the Wireline Competition Bureau met with representatives from OPASTCO to discuss the Commission's plans for a Notice on universal service portability issues. OPASTCO proposed several issues that should be addressed within the Notice. These issues all relate to the appropriate rules governing the designation and review of eligible telecommunications carriers (ETCs) within rural service areas.

Attendance Eric Einhorn (FCC)
Paul Garnett (FCC)
Narda Jones (FCC)
William Scher (FCC)
Katherine Shaud Tofigh, (FCC)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)
Roger Nishi (Waitsfield-Fayston Telephone Co.)

Date August 16, 2002

Subject On August 14, 2002, representatives from both the Wireline Competition Bureau and the Wireless Bureau met with representatives from OPASTCO and the Association of GX5000 Users to discuss aspects of the Communications Assistance for Law Enforcement Act (CALEA). Specifically, attendees reviewed the Commission's plans for review of the Section 109 Petition filed by the GX500 Users Group and discussed matters described in the Petition.

Attendance Tom Beers (FCC)
Gayle Radley Teicher (FCC)
David Ward (FCC)
John Spencer (FCC)
John Hays (FCC)
Cathy Zima (FCC)
Ginny Kennedy (FCC)
Stephen Pastorkovich (OPASTCO)
Harold Albertson (GX5000 Users Group)
James Lister (McGuire Woods, LLP)

Date June 26, 2002

Subject On June 26, 2002, Commissioner Michael Copps and a member of his staff met with representatives from NTCA, OPASTCO, and the Rural Telecommunications Group to discuss the regulatory challenges faced by rural mobile wireless service providers, as well issues related to the Commission's Spectrum Management Task Force inquiry.

Attendance Commissioner Michael Copps (FCC)
Paul Margie (FCC)
Jeffrey Smith (OPASTCO)
Michael Kurtis (Kurtis & Associates)
Carri Bennet (Rural Telecommunications Group)
John Prendergast (Rural Telecommunications Group)
Jill Canfield (NTCA)
Marie Guillory (NTCA)

Date May 3, 2002

Subject On April 25, 2002, a representative from the Office of Chairman Michael Powell met with representatives from NRTA, NTCA, NECA, OPASTCO, and USTA to discuss an upward adjustment that should be made to the amount of high-cost loop support available to rural carriers in 2002 in order to account for the mid-2001 implementation of the new rules adopted in the Rural Task Force (RTF) Order.

Attendance Kyle Dixon (FCC)
Stuart Polikoff (OPASTCO)
Gina Harrison (NECA)
Margot Humphrey (NRTA)
Daniel Mitchell (NTCA)
Scott Reiter (NTCA)
Larry Sarjeant (USTA)

Date March 8, 2002

Subject On March 7, 2002, representatives from the Common Carrier Bureau met with representatives from NRTA, NTCA, NECA, OPASTCO, USAC, and USTA to discuss the data that would be submitted to the Universal Service Administrative Company (USAC) for its administration of Interstate Common Line Support (ICLS).

Attendance Carol Matthey (FCC)
Katherine Schroder (FCC)
William Scher (FCC)
Ted Burmeister (FCC)

Jeffrey Smith (OPASTCO)
Susan Bahr (Law Offices of Susan Bahr, PC)
Mike Hybl (Great Plains Communications)
Jim Frame (NECA)
Ken Levy (NECA)
Margot Humphrey (NRTA)
Brian O'Hara (NTCA)
Irene Flannery (USAC)
Linda Miller (USAC)
Larry Sarjeant (USTA)
Roger Nishi (Waitsfield-Fayston Telephone Co.)

Date January 18, 2002

Subject On January 17, 2002, representatives from the Office of Commissioner Kevin Martin met with representatives from NTCA, NECA, OPASTCO, and USTA to discuss the methodology employed for universal service cost recovery. In addition, several issues related to the implementation of the MAG Order were also discussed.

Attendance Sam Feder (FCC)
Linda Nagel (FCC)
Jeffrey Smith (OPASTCO)
Brian O'Hara (NTCA)
Rick Askoff (NECA)
Gina Harrison (NECA)
Ed Kaina (USTA)

Date January 14, 2002

Subject On January 11, 2002, representatives from the Common Carrier Bureau met with representatives from NTCA, NECA, OPASTCO, and USTA to discuss the methodology employed for universal service cost recovery. In addition, several issues related to the implementation of the MAG Order were also discussed.

Attendance Dorothy Attwood (FCC)
Carol Matthey (FCC)
Jessica Rosenworcel (FCC)
Bill Scher (FCC)
Katherine Schroeder (FCC)
Stuart Polikoff (OPASTCO)
Brian O'Hara (NTCA)
Rick Askoff (NECA)
Gina Harrison (NECA)

Ed Kaina (USTA)

Date January 4, 2002

Subject On January 3, 2002, a representative from the Office of Commissioner Michael Capps met with representatives from NTCA, NECA, OPASTCO, and USTA to discuss the methodology employed for universal service cost recovery. In addition, several issues related to the implementation of the MAG Order and also the status of Local Number Portability (LNP) cost recovery were also discussed.

Attendance Jordan Goldstein (FCC)
Jeffrey Smith (OPASTCO)
Jill Canfield (NTCA)
Brian O'Hara (NTCA)
Rick Askoff (NECA)
Gina Harrison (NECA)
Ed Kaina (USTA)

Date January 4, 2002

Subject On January 3, 2002, a representative from the Office of Commissioner Kathleen Abernathy met with representatives from NTCA, NECA, OPASTCO, and USTA to discuss the methodology employed for universal service cost recovery. In addition, several issues related to the implementation of the MAG Order and also the status of Local Number Portability (LNP) cost recovery were also discussed.

Attendance Matthew Brill (FCC)
Jeffrey Smith (OPASTCO)
Jill Canfield (NTCA)
Brian O'Hara (NTCA)
Rick Askoff (NECA)
Gina Harrison (NECA)
Ed Kaina (USTA)

Date January 4, 2002

Subject On January 3, 2002, a representative from the Office of Chairman Michael Powell met with representatives from NTCA, NECA, OPASTCO, and USTA to discuss the methodology employed for universal service cost recovery. In addition, several issues related to the implementation of the MAG Order and also the status of Local Number Portability (LNP) cost recovery were also discussed.

Attendance Kyle Dixon (FCC)

Stuart Polikoff (OPASTCO)
Jeffrey Smith (OPASTCO)
Jill Canfield (NTCA)
Brian O'Hara (NTCA)
Rick Askoff (NECA)
Gina Harrison (NECA)
Ed Kaina (USTA)

Date January 4, 2002

Subject On January 3, 2002, representatives from the Accounting Policy Division met with representatives from NTCA, NECA, OPASTCO, and USTA to discuss the methodology employed for universal service cost recovery. In addition, several issues related to the implementation of the MAG Order and also the status of Local Number Portability (LNP) cost recovery were also discussed.

Attendance Paul Garnett (FCC)
Greg Guice (FCC)
Bill Scher (FCC)
Jeff Waldau (FCC)
Stuart Polikoff (OPASTCO)
Jeffrey Smith (OPASTCO)
Jill Canfield (NTCA)
Brian O'Hara (NTCA)
Rick Askoff (NECA)
Gina Harrison (NECA)
Ed Kaina (USTA)

OTHER FILINGS

- Type** Letter to Marlene Dortch, Secretary, Federal Communications Commission
- Date** November 14, 2002
- Subject(s)** OPASTCO, NRTA, and NTCA submitted this written *Ex Parte* memorandum in order to refute claims that the Commission cannot assess universal service contributions on entities that are ineligible to receive support. The Associations noted that support from the broadest possible contributor base, including all broadband Internet access providers, is necessary to ensure that universal service support is sustainable.
- Type** Letter to Federal Communications Commission Chairman Michael Powell and Commissioners Kathleen Abernathy, Michael Copps, and Kevin Martin
- Date** October 30, 2002
- Subject(s)** OPASTCO submitted this written *Ex Parte* presentation in order to express its support for an interim universal service contribution proposal. OPASTCO urged the Commission to approve an interim methodology that would continue to use interstate, end-user revenues as a contribution base. Such an approach would give the Commission sufficient time to craft a permanent contribution that would: comply with the legal requirements of the Telecommunications Act of 1996, maintain the sufficiency and stability of the universal service fund, and be administratively feasible.
- Type** Letter to Michael Powell, Chairman, Federal Communications Commission
- Date** October 15, 2002
- Subject(s)** OPASTCO, NTCA, and USTA submitted this written *Ex Parte* presentation in order to express their opposition to the connections-based proposal presented by the Coalition for Sustainable Universal Service (CoSUS). The Associations argued that the CoSUS proposal violates Section 254(d) of the Telecommunications Act of 1996, as it would exclude interexchange carriers from their obligations to contribute to universal service on an equitable and nondiscriminatory basis. The Associations stated that they would be compelled to seek judicial review of any FCC order based on the CoSUS proposal.

Type Letter to Michael Powell, Chairman, Federal Communications Commission

Date September 26, 2002

Subject(s) OPASTCO submitted this letter in order to nominate Edwin H. Eichler to the Universal Service Administrative Company (USAC) Board of Directors as a representative for incumbent local exchange carriers (other than Bell Operating Companies) with annual operating revenues of \$40 million or less.

Type Written *Ex Parte* Presentation to the Federal Communications Commission

Date September 19, 2002

Subject(s) OPASTCO, NRTA, and NTCA prepared this written *Ex Parte* presentation in response to a presentation filed on behalf of the Coalition for Sustainable Universal Service (CoSUS). The Associations argued that the CoSUS plan fails to implement the requirements in the Telecommunications Act of 1996 that every provider of interstate telecommunications must contribute to federal universal service support or that carriers' contributions must be assessed on an equitable and nondiscriminatory basis. The FCC must therefore reject the CoSUS proposal and instead adopt a lawful connections-based plan that encompasses connections with every telecommunications carrier that provides interstate telecommunications service.

Type Letter to Tom Beers, Wireline Competition Bureau, FCC

Date August 9, 2002

Subject(s) OPASTCO submitted this letter supporting the petition filed by the Association of GX5000 Users. In its filing, the GX 5000 Users Group argued that it should be authorized to file a single petition for relief as provided for within the Communications Assistance for Law Enforcement Act (CALEA), as opposed to requiring each of the group's 73 members to file individually. OPASTCO noted that within CALEA, associations are included within the list of "interested persons" who are qualified to submit such petitions. Consequently, OPASTCO argued that the GX5000 Users' request is entirely valid and urged the Commission to grant the Petition based upon its merits.

Type Written Statement Submitted to the Committee on Commerce, Science, and Transportation, U.S. Senate

Date July 30, 2002

Subject(s) OPASTCO noted that financial turmoil in the telecom marketplace has far-reaching consequences for hundreds of small, rural local exchange carriers (LECs) across the nation. The ability of rural telephone companies to provide affordable and quality telephone service relies in large part on revenue streams provided by toll providers such as WorldCom to support their high fixed network costs. OPASTCO members are concerned with WorldCom's ongoing ability to pay inter and intrastate access charges while also fulfilling its equally important obligation to contribute its share to the federally mandated universal service fund.

Consequently, it is essential for federal policymakers to take steps to ensure that the business failure of WorldCom does not spread to other companies. Specifically, the bankruptcy court and federal regulators should demand that WorldCom reasonably guarantee that it will continue to meet both its access charge and universal service contribution commitments. At this time of uncertainty, Congress must work collaboratively with key regulators and industry stakeholders in order to ensure the continued reliability of our nation's telecommunications network.

Type Written Supplemental Testimony Submitted to the Committee on Commerce, Science, and Transportation, U.S. Senate

Date July 22, 2002

Subject(s) OPASTCO responded to several questions posed by Senators on the committee, as a follow-up to the June 19th Senate hearing held regarding the future of universal service. These questions pertained to the Federal Communications Commission's current proceeding regarding reform of the universal service contribution methodology.

In response, OPASTCO noted that any reform proposals must take into account: 1), the present legal requirements as stated within the Telecommunications Act of 1996, 2) the need to bolster the stability and sufficiency of the fund for the long term, (3) the importance of equity and nondiscrimination for all market participants, (4) the necessity to provide certainty to these market participants, and (5) the desirability of minimizing the regulatory costs of compliance. Additionally, adopting a new assessment mechanism without also including all facilities-based broadband Internet access providers would fail to address a major cause of the instability of the present system.

Type Written *Ex Parte* Presentation to the Federal Communications Commission

Date July 8, 2002

Subject(s) OPASTCO prepared this written *Ex Parte* presentation in response to a presentation filed on behalf of the Competitive Universal Service Coalition (CUSC). In its statement, OPASTCO argued that equal access meets all four of the criteria contained in the Telecommunications Act of 1996 for including a service in the universal service definition. Equal access is pro-competitive and competitively neutral. Most importantly, it is also in the public interest. Therefore, contrary to the incorrect claims made by CUSC, equal access should be added to the list of services supported by the universal service fund.

Type Correspondence Sent to Commissioner Bob Rowe, member of the Federal-State Joint Board on Universal Service

Date July 3, 2002

Subject(s) OPASTCO responded to several specific questions asked by Commissioner Rowe, as a follow-up to the June 21st FCC Public Meeting held on proposals to reform the Universal Service Contribution methodology. OPASTCO reiterated that, while it is supportive of a flat-fee contribution mechanism, the “connection”-based proposal offered by AT&T: 1) does not conform to the 1996 Act’s contribution requirements, 2) does not ensure equality and nondiscrimination, and 3) does not ensure the stability and sufficiency of the fund for the long term.

Type Written Statement Submitted to the Rural Utilities Service, United States Department of Agriculture for its Public Meeting on Rural Broadband Access

Date June 27, 2002

Subject(s) OPASTCO noted that, while demand levels vary among rural markets, digital subscriber line (DSL)-based service is available to over 50 percent of the customers served by OPASTCO’s members. Demand can be encouraged through new products, which would allow carriers to provide video, high-speed Internet access, and voice services to the home over DSL. However, it is often very difficult for rural providers to obtain video content that consumers demand. Even if demand were to rise, the cost of deployment in the most sparsely populated markets remains a challenge. Furthermore, ubiquitous deployment cannot be achieved if providers cannot recover their costs. One of the greatest threats to maximum broadband deployment in rural areas occurs when state or local governments decide to provide service on a commercial basis. Therefore, it is imperative that the RUS implement section 601(d)(2) of the Farm Security and Rural Investment Act of 2002 with a great deal of care. This provision declares that a state or local government may only be eligible for an RUS loan if no other eligible entity is already offering, or has committed to offer, broadband services to the eligible rural community. The RUS should minimize the requirements LECs must comply with to demonstrate a “commitment to offer” broadband services.

Finally, section 601(b)(2) of this statute prohibits small carriers that serve communities located within standard metropolitan statistical areas (MSAs) from receiving RUS assistance in this program. This provision should be changed since a number of truly rural communities are located within MSAs simply because a small portion of their county may be urban in nature. OPASTCO recommended that the RUS work with Congress to correct this flaw.

Type Written Testimony Submitted to the Committee on Commerce, Science, and Transportation, U.S. Senate

Date June 19, 2002

Subject(s) OPASTCO stated that an unending string of Federal Communications Commission (FCC) regulations and court decisions might jeopardize our national universal service program. Therefore, the FCC must ensure that universal service funding is sufficient and sustainable. While there is still controversy about how to improve the current system, it is clear that the FCC needs to follow the law and ensure that interstate long distance carriers continue to provide their share of support, as is mandated by statute. It is also obvious that the FCC has to make all service providers that offer competing services and functions contribute to universal service in order to avoid both marketplace distortions and saddling some customers with too much of the cost of national policy.

Second, OPASTCO noted that the FCC must make sure that support for new carriers is not excessive, carries real responsibilities, and provides real customer benefits. Even though Congress specifically expanded and spelled out the nation's long-standing commitment to universal service in the 1996 Act, the FCC's notion of "competitive neutrality" has led it to squander support collected from the nation's consumers and businesses by guaranteeing windfall payments to "competitors."

OPASTCO asked Congressional leaders to remind the FCC that the purpose of federal support in high cost areas is neither simply to double or triple the cost of nationwide universal service to provide new carriers with premium profits nor to provide customers with subsidized choices. As such, we requested Congress to work with us to stem the tide of regulatory and legal decisions that are unraveling universal service, and to strengthen our nation's commitment to this important national policy.

Type Written Testimony Submitted to the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, Committee on Appropriations, U.S. House of Representatives

Date March 20, 2002

Subject(s) OPASTCO submitted this testimony in order to seek the Subcommittee's support for FY 2003 loan levels for the telecommunications loans program and Rural Telephone Bank (RTB) program administered by the Rural Utilities Service (RUS) in the following amounts:

5% hardship loans:	\$ 75 million
Treasury Rate loans:	\$300 million
Guaranteed loans:	\$120 million
RTB loans:	\$175 million

In addition, OPASTCO requested the following action by the Subcommittee: (1) removal of the statutory 7 percent cap on Treasury rate loans for FY 2003; (2) removal of previous appropriations act language limiting the retirement of Class A stock of the RTB to 5 percent; (3) a prohibition of the transfer of unobligated RTB funds to the general fund of the Treasury; and (4) funding of the distance learning / telemedicine and broadband grant and loan programs at sufficient levels.

Type Written Testimony Submitted to the Subcommittee on Agriculture, Rural Development and Related Agencies, Committee on Appropriations, U.S. Senate

Date March 20, 2002

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Type Letter to Dorothy Attwood, Common Carrier Bureau, FCC

Date March 11, 2002

Subject(s) OPASTCO submitted this letter discussing the Universal Service Administrative Company's (USAC) proposed data collection request form to implement the Interstate Common Line Support (ICLS) mechanism. The Association noted its concern that USAC's proposed form would place a significant and unnecessary burden on ROR ILECs, as these carriers already submit the requested data to NECA. OPASTCO recommended that USAC rely on NECA to develop and file common line data needed to calculate ICLS on behalf of pool members.