

OPASTCO

2005

REGULATORY AFFAIRS

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

OVERVIEW

The following pages list the formal documents that OPASTCO has produced during 2005 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 currently consists of Stuart Polikoff, Director of Government Relations, Stephen Pastorkovich, Director of Business Development/Senior Policy Analyst, and Brian Ford, Policy Analyst.

FCC FILINGS

Comprehensive Review of Universal Service Fund Management, Administration, and Oversight WC Docket No. 05-195

Type OPASTCO and WTA Reply Comments

Date December 19, 2005

Subject(s) Notice of Proposed Rulemaking (NPRM) seeking comment on proposals to improve the administration, management, and oversight of the Universal Service Fund (USF)

**OPASTCO
WTA** A widespread, unfocused independent audit requirement for rural incumbent local exchange carrier (ILEC) recipients of high-cost support would be a waste of both the carriers' and the government's resources. Like OPASTCO and WTA, several commenters recognize that rural ILECs' financial data is already subject to several layers of review which prevent waste, fraud, and abuse of the high-cost funds that they receive. If the Commission still decides that independent audits of rural ILEC recipients of high-cost support are necessary, they should be targeted using a two-step "screening mechanism" which includes a percentage-based support threshold and a risk identification mechanism. In addition, the Commission should make the costs of any required independent audits an administrative expense of the USF. It should also distinguish between intentional fraud and ministerial error in the course of any audits that are conducted.

Other commenters agree with OPASTCO and WTA that both the existing reporting requirements and the distribution process for rural ILEC recipients of high-cost support function well and should remain in place. In particular, there is support in the record for having the National Exchange Carrier Association (NECA) continue to collect and validate all investment and expense data.

Finally, the Commission should ignore a couple of wireless carrier interests that raise issues related to the cost basis of high-cost universal service support and the designation of ETCs. These issues are either already being considered in another proceeding or have already been addressed by the Commission.

SBC Petition for Declaratory Ruling That UniPoint Enhanced Services and Other Wholesale Transmission Providers Are Liable for Access Charges

**Petition for Declaratory Ruling That VarTec Telecom, Inc. is Not Required to Pay Access Charges to Terminating LECs When Enhanced Service Providers Deliver the Calls
WC Docket No. 05-276**

Type OPASTCO, ITTA, NECA, NTCA, USTelecom, and WTA Reply Comments

Date December 12, 2005

Subject(s) SBC petition requesting a ruling that wholesale transmission providers using Internet Protocol (IP) technology to transport ordinary long-distance calls are subject to access charges; VarTec petition requesting a ruling that it is not required to pay access charges when the carriers with whom VarTec has business relationships deliver calls to LECs for termination

OPASTCO The Commission should promptly confirm that carriers offering interstate phone-to-phone services that originate and terminate on the PSTN are subject to both
ITTA originating and terminating access charges, regardless of whether such calls
NECA utilize IP transmission technology or are routed via intermediate carriers prior to
NTCA termination by LECs. The Commission should also reject arguments that carriers
USTelecom offering phone-to-phone interexchange voice service are not IXC's because they
WTA also offer enhanced services or because they may employ packet-switching or other new technologies in delivering their transmission services.

The Commission should deny VarTec's petition asking for an exemption from access charges for carriers seeking to circumvent the payment of such charges by routing their interexchange traffic through intermediate carriers prior to termination by LECs. The Commission should also deny VarTec's claim for compensation from terminating LECs for the traffic VarTec carries for other carriers.

**Petition for Declaratory Ruling Regarding Self-Certification of IP-Originated Traffic
WC Docket No. 05-283**

Type OPASTCO, ITTA, NECA, NTCA, USTelecom, and WTA Comments

Date December 12, 2005

Subject(s) Grande Communications petition requesting a ruling that when an access customer certifies to a local exchange carrier (LEC) that its traffic is VoIP originated traffic, the LEC may rely on that certification and treat the customer's traffic as local for routing and intercarrier compensation purposes

OPASTCO The Associations urge the Commission to deny Grande’s petition as premature
ITTA and unwarranted. Questions related to the comprehensive regulatory treatment of
NECA VoIP-originated traffic, including the extent to which access charges and
NTCA universal service contribution obligations apply to such traffic, are currently
USTelecom before the Commission in the context of its *IP-Enabled Services* and *Intercarrier*
WTA *Compensation* rulemaking proceedings. By asking the Commission to establish a
 procedure under which LECs would be required to treat VoIP-originated traffic as
 enhanced, regardless of the actual nature of the service offered, Grande
 improperly seeks to pre-judge the outcome of those proceedings. To the extent
 that VoIP services are the functional equivalent of traditional voice telephone
 services and impose the same costs on the network, they should be subject to
 access charges and universal service contributions. Also, the enhanced service
 provider (ESP) exemption does not apply where a service provider uses the LEC
 facilities as an element in an end-to-end long-distance call. Finally, permitting
 carriers to “certify” that VoIP traffic is exempt from access charges and universal
 service obligations runs counter to established Commission and industry billing
 practices and will only invite fraud and abuse.

**Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers
 WT Docket No. 05-265**

Type OPASTCO, RTG, Sprint/Nextel, RCA, Verizon Wireless, Cingular Wireless, T-Mobile, Alltel, US Cellular, and Leap Wireless Request for Extension of Reply Comment Deadline

Date December 5, 2005

Subject(s) NPRM seeking comment on whether the Commission’s rules regarding roaming requirements applicable to Commercial Mobile Radio Service (CMRS) providers should be modified given the current conditions of the industry

OPASTCO et al. To review and analyze the voluminous record in the initial comment round and to accommodate the end-of-year holiday period, the petitioning carriers and trade associations request a 30 extension of the reply comment deadline in this proceeding.

**Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers
 WT Docket No. 05-265**

Type OPASTCO and RTG Comments

Date November 28, 2005

Subject(s) NPRM seeking comment on whether the Commission's rules regarding roaming requirements applicable to CMRS providers should be modified given the current conditions of the industry

OPASTCO RTG The Commission should mandate an automatic roaming rule that requires large wireless carriers to provide seamless automatic roaming at just and reasonable rates to any requesting small carrier. These compensation arrangements should be modeled upon compensation agreements between large wireless carriers that generally reflect competitive roaming market conditions.

Due to their significant market power, large wireless carriers have forced rural wireless providers into unreasonable roaming agreements. Under these agreements, large nationwide carriers often pay less than rural carriers' costs for the customers of nationwide carriers to roam on the rural carriers' networks. At the same time, rural CMRS providers are forced to pay unreasonable rates in order to allow their customers to roam on the networks of the large carriers. Using roaming agreements between large carriers operating in a competitive roaming environment as models for nationwide/rural roaming agreements will ensure that rural consumers pay roaming rates that are fair and reasonable, not rates based on abuse of market power.

**Federal-State Joint Board on Universal Service
National Exchange Carrier Association, Inc.
2006 Modification of Average Schedule Universal Service Formulas
CC Docket No. 96-45
DA 05-2745**

Type OPASTCO Comments

Date November 18, 2005

Subject(s) NECA's proposed modifications to the average schedule universal service High-Cost Loop Support (HCLS) formula for 2006

OPASTCO NECA's proposed HCLS formula satisfies Parts 36, 54, and 69 of the Commission's rules. The formula is a fair, unbiased estimator of expense adjustments for smaller average schedule companies. Therefore, the formula should be promptly approved so that small average schedule companies can receive reasonably accurate support payments.

**Communications Assistance for Law Enforcement Act
And Broadband Access and Services
ET Docket No. 04-295
RM-10865**

Type OPASTCO and NTCA Comments

Date November 14, 2005

Subject(s) Further Notice of Proposed Rulemaking (FNPRM) concerning the application of the Communications Assistance for Law Enforcement Act (CALEA) to facilities-based broadband Internet access providers

**OPASTCO
NTCA** The Commission should exempt from CALEA the facilities-based broadband Internet access services of all rural telephone companies. CALEA's promise of reimbursable compliance expenses has never materialized, and rural carriers have been forced to spend precious resources upgrading for an application that is rarely, if ever, used.

A reasonable cost-benefit analysis would recommend against requiring the facilities-based broadband Internet access services of rural telephone companies to be CALEA-compliant. It should instead be incumbent upon the application provider, for example a VoIP provider, to comply with CALEA. If the Commission chooses not to exempt rural telephone companies, it should simplify the procedures for obtaining extensions, since the high compliance costs and inability of rural carriers to obtain necessary equipment will slow the pace of compliance in a packet-switched environment as it did in the circuit-switched environment.

**SBC Petition for Declaratory Ruling That UniPoint Enhanced Services and Other
Wholesale Transmission Providers Are Liable for Access Charges**

**Petition for Declaratory Ruling That VarTec Telecom, Inc. is Not Required to Pay Access
Charges to Terminating LECs When Enhanced Service Providers Deliver the Calls
WC Docket No. 05-276**

Type OPASTCO, ITTA, NECA, NTCA, USTelecom, and WTA Comments

Date November 10, 2005

Subject(s) SBC petition requesting a ruling that wholesale transmission providers using IP technology to transport ordinary long-distance calls are subject to access charges; VarTec petition requesting a ruling that it is not required to pay access charges when the carriers with whom VarTec has business relationships deliver calls to local exchange carriers (LECs) for termination

OPASTCO The FCC should grant SBC’s petition and reaffirm that the use of IP technology
ITTA to transport voice calls does not exempt such calls from access charges. It makes
NECA no difference that in some instances long-distance traffic may be routed through
NTCA an intermediary prior to hand-off to the ILEC for termination. The Commission
USTelecom should not tolerate the attempts of some IXCs to circumvent compensation of
WTA LECs for the use of their networks.

The Commission should deny VarTec’s petition insofar as it seeks to exempt facilities-based carriers from access charges or impose “transiting” costs on ILECs for ordinary long-distance traffic. Specifically, the Commission should deny VarTec’s claim that because it does not connect directly with ILECs, it is therefore not a “customer” for purposes of LEC access tariffs. VarTec clearly functions as an IXC and is therefore subject to access charges under section 69.5 of the Commission’s rules. VarTec may not circumvent access charge rules by inter-positioning IP-based carriers between themselves and a terminating LEC.

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

Type OPASTCO Reply Comments

Date October 31, 2005

Subject(s) Federal-State Joint Board on Universal Service seeks comment on proposals to modify the Commission’s rules relating to high-cost universal service support.

OPASTCO The vast majority of commenters oppose the use of a block grant system for the distribution of federal high-cost support. These commenters recognize not only the questionable legality of such a system, but also the unpredictability, inefficiency, and administrative burdens such a system would create.

Many commenters also oppose treating rural telephone companies and non-rural carriers the same in the calculation of high-cost support. The Joint Board should maintain the existing definition of “rural” for high-cost universal service purposes, based on the complete statutory definition of “rural telephone company.”

The Joint Board should recommend that high-cost support for rural ILECs continue to be based on their actual embedded costs, a method that provides these carriers with the proper incentives to prudently invest in their networks. The Joint Board should also continue to calculate rural ILECs’ high-cost support on study area average costs, and not utilize statewide costs in the calculation. In addition, the Joint Board should not freeze rural ILECs’ per-line support.

Finally, the Joint Board should recommend the abandonment of the identical support rule for CETCs in rural service areas. Numerous commenters agree that support for CETCs in rural service areas should be based on their own actual costs. As an alternative, there is support in the record for exploring the idea of a separate mechanism for wireless CETCs that supports the buildout of wireless networks.

**Comprehensive Review of Universal Service Fund Management, Administration, and Oversight
WC Docket No. 05-195**

Type	OPASTCO and WTA Comments
Date	October 18, 2005
Subject(s)	Notice of Proposed Rulemaking (NPRM) seeking comment on proposals to improve the administration, management, and oversight of the USF
OPASTCO WTA	<p>OPASTCO and WTA stated that a broad independent audit requirement for rural ILEC recipients of high-cost support is unnecessary. Rural ILECs' financial data is subject to several layers of review, including those by NECA, independent financial auditors, and state commissions.</p> <p>If the Commission still decides that an independent audit requirement is necessary, it should not apply to any rural ILEC whose high-cost support level is below a particular threshold. An independent audit requirement should be further narrowed with a risk identification mechanism; only those rural ILECs above the support threshold who also appear to pose a significant risk of wrongdoing would be subject to an audit. Furthermore, the costs of any potential high-cost audits should be recognized as an administrative expense of the USF and should not be absorbed by rural ILECs or their customers.</p> <p>Any efforts to improve the USF application and disbursement process must not impose unnecessary administrative burdens on rural ILECs. Finally, before contemplating whether or not the permanent, designated administrator of the USF should be replaced, the Commission should establish performance goals and use them in a thorough evaluation of the Universal Service Administrative Company (USAC).</p>

Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming
MB Docket No. 05-255

Type OPASTCO Reply Comments

Date October 11, 2005

Subject(s) Notice of Inquiry (NOI) seeking comment on competition in the market for the delivery of video programming and any unique barriers rural ILECs face into smaller and rural video markets.

OPASTCO OPASTCO's survey of its members demonstrates that a growing number of rural ILECs are becoming multichannel video programming distributors (MVPDs) using newer technologies. Those respondents that serve as MVPDs in multiple jurisdictions or in areas where they face competition from large cable companies reported resistance from incumbents and high fees as the major obstacles to obtaining local franchises. A large number of respondents said that the lack of a workable business model was the largest impediment to market entry. The lack of access to affordable content under reasonable terms was also cited by a large number of respondents. Many rural carriers noted that the business model was difficult largely because of the cost of access to programming.

Rural carriers also face other barriers to entry into the video market such as non-disclosure agreements, retransmission consent, tying arrangements, predatory pricing, restrictions on the use of IP video, and the possible reduction of content made available to providers that share head-ends. Because bundling broadband services with video makes broadband deployment more economically viable, factors which impede rural ILECs' deployment of video services also impede the further deployment of advanced services in rural areas.

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

Type OPASTCO Comments

Date September 30, 2005

Subject(s) Federal-State Joint Board on Universal Service seeks comment on proposals to modify the Commission's rules relating to high-cost universal service support.

OPASTCO OPASTCO commented on four proposals that several Joint Board members and staff developed to modify the Commission's rules related to high-cost universal service support. OPASTCO is unable to support any of the proposals. All of the proposals are overly focused on minimizing the size and growth of the federal

High-Cost program without giving adequate consideration to the impact they will have on the provision of service in high-cost rural areas.

The proposals contained three major components that would be harmful to the continued achievement of universal service in rural service areas. A block grant or state allocation mechanism for the distribution of high cost support to ETCs would create an unwelcome sense of uncertainty for rural ILECs that would inhibit investment in rural networks. A block grant system is also inefficient and would place significant and unnecessary administrative burdens on state commissions and the FCC. The use of statewide costs in determining the total amount of support for all of the ETCs in a state would result in many rural ILECs receiving little, if any, high-cost support. Rural carriers do not serve large, low-cost urban areas with which they can internally average the cost of serving their high-cost customers. In addition, treating rural telephone companies and non-rural carriers the same in the distribution of high-cost support fails to consider the unique challenges rural ILECs face in the provision of service.

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

Type	OPASTCO and NTCA Reply Comments
Date	September 6, 2005
Subject(s)	Initial Regulatory Flexibility Analysis (IRFA) in connection with the Intermodal Local Number Portability (LNP) Order.
OPASTCO NTCA	OPASTCO and NTCA reiterated their assertion that the Intermodal LNP Order disregards the fact that two percent carriers' transport responsibilities and capabilities are restricted to their service territories. The reply comments also refuted the claims of wireless carriers, made without support, that current intermodal LNP rules result in little or no economic burden on two percent carriers.

The Associations also underscored how the belated IRFA falls short of the Commission's responsibilities under the Regulatory Flexibility Act. The comments submitted by small carriers in this proceeding provide a considerable record detailing the compliance burdens and unresolved issues related to the Intermodal LNP Order. The Associations urged the Commission to utilize the substantial record in its preparation of a Final Regulatory Flexibility Analysis that accounts for the technical and factual limitations of two percent carriers' networks.

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

Type OPASTCO and NTCA Comments

Date August 19, 2005

Subject(s) IRFA in connection with the Intermodal LNP Order.

**OPASTCO
NTCA** OPASTCO and NTCA stated that the IRFA was deficient because it ignores the network capabilities of small carriers and fails to address the significant compliance burdens these providers face. It is technically infeasible for two percent carriers to comply with the rating and routing requirements of the Intermodal LNP Order in the absence of established points of interconnection (POI) with wireless carriers. In addition, the high per-subscriber costs of deploying intermodal LNP, coupled with low demand for wireline-to-wireless porting, imposes significant economic burdens on two percent carriers. Furthermore, the Commission should not rely on state commissions to address the burdens placed on small carriers through the suspension and modification provision of the Telecommunications Act of 1996.

The Associations urged the Commission to extend the stay of the Intermodal LNP Order for all two percent carriers until the rating and routing issues are resolved. In the alternative, the FCC should require that wireless carriers either establish a POI within the service areas of two percent carriers or require wireless carriers to pay the transport and termination costs for traffic outside of those service areas.

Federal-State Joint Board on Universal Service

**General Communications, Inc. Request for Clarification of
Clerical Changes to 47 C.F.R. §54.307 and for Direction to USAC
CC Docket No. 96-45**

Type OPASTCO, ITTA, NECA, NTCA, USTelecom, and WTA

Date August 17, 2005

Subject(s) General Communications, Inc. (GCI) request that the FCC instruct USAC that certain provisions of the *Fourth Report and Order on Reconsideration* in CC Docket No. 96-45, governing subtraction of support paid to ILECs when lines are “captured” by competitive ETCs, remain in effect.

**OPASTCO
ITTA
NECA** The FCC should reject GCI’s petition. GCI fails to recognize that the methodology changes made in the *Ninth Report and Order* to rules governing support portability payments for non-rural carriers rendered the “ILEC support

NTCA subtraction” language adopted in the *Fourth Report and Order* superfluous. The
USTelecom Commission’s deletion of this language from the Commission’s rules was not a
WTA clerical error (as GCI claims) but was a logical consequence of other actions taken
in the *Ninth Report and Order* to “ensure equitable, non-discriminatory and
competitively-neutral treatment” of ILECs and CETCs. The Commission’s
deletion of the ILEC support subtraction rule was also done in full accordance
with the Administrative Procedures Act. Further, adding back the ILEC support
subtraction rule would violate both competitive equity principles and the 1996
Telecommunications Act requirement that support be “specific, predictable, and
sufficient.”

Federal-State Joint Board on Universal Service

**Darien Telephone Company, Inc., Logan Telephone Company, Inc.,
and Roanoke & Botetourt Telephone Company
Request for Review of the Universal Service Administrative Company’s Decision
Regarding Safety Net Additive Support
CC Docket No. 96-45**

Type OPASTCO and NTCA Comments

Date August 5, 2005

Subject(s) FCC Public Notice seeking comment on decisions by USAC that reduced three
rural ILECs’ safety net additive support

OPASTCO The Associations supported a petition from three rural ILECs requesting reversal
NTCA of a USAC decision to retroactively recalculate safety net additive (SNA) support
that they had received and requiring them to refund the support. The Associations
stated that the Commission’s January 14, 2005 revised calculation methodology
for SNA support should apply on a prospective basis only. USAC’s prior
interpretation of the SNA support calculation rules was reasonable and eligible
carriers should not be punished through the retroactive application of the revised
support calculation rules.

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

Type OPASTCO and NTCA Opposition to Petitions for Reconsideration

Date August 4, 2005

Subject(s) Petitions for Reconsideration filed by wireless carriers in response to the Commission's Order establishing minimum requirements for carriers to be classified as an ETC

OPASTCO OPASTCO and NTCA urged the Commission to reject wireless carriers' requests
NTCA to remove provisions of the Order that better ensure that ETC applicants demonstrate their commitment and ability to provide the supported services throughout the designated area. Specifically, it is imperative that the Commission maintain a requirement that ETC applicants submit a formal network improvement plan. In addition, the FCC should confirm that state commissions may determine what constitutes a reasonable request for service for all ETCs that they designate, including wireless ETCs.

**Developing a Unified Intercarrier Compensation Regime
CC Docket No. 01-92**

Type Rural Alliance Reply Comments

Date July 20, 2005

Subject(s) FCC Further Notice of Proposed Rulemaking seeking comment on developing a unified intercarrier compensation regime

Rural Alliance The Rural Alliance stated that several of the proposals in this proceeding, particularly bill and keep, ignore the current rational balance in cost recovery. While changes in the intercarrier compensation framework are needed, there is no rational basis to undertake changes that would disrupt this balance by eliminating or substantially reducing intercarrier compensation while increasing significantly both end user rates and the size of the USF. The Rural Alliance is also opposed to proposals that would deregulate intercarrier compensation and transition interconnection arrangements to commercial agreements.

The Rural Alliance supports: (1) Uniform application of unified, cost-based rates to all retail service providers that utilize other carriers' networks. For rural carriers operating under rate-of-return regulation, such rates should be based on embedded costs; (2) Compensation for both origination and termination of traffic where carriers providing equal access are required to originate traffic for retail service providers that do not have a physical connection to the end user; (3) Rates converging to common levels, while maintaining access and reciprocal compensation as separate and distinct services; (4) Establishment of a nationwide local service rate benchmark to ensure that all consumers pay reasonably comparable basic service rates; (5) Increasing the Subscriber Line Charges for price cap carriers to current cap levels as a means of recovering some or all of intercarrier revenue reductions for those carriers not at the cap; (6) Maintaining existing interconnection requirements and meet-points; and (7) Implementing

rules that minimize “phantom traffic” and ensure that carriers pay for their use of network functionality.

Developing an Intercarrier Compensation Regime

T-Mobile Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs CC Docket No. 01-92

Type OPASTCO and NTCA Comments

Date June 30, 2005

Subject(s) Opposition to T-Mobile’s Petition for Reconsideration of the FCC’s Declaratory Ruling and Report and Order Regarding Incumbent LEC Wireless Termination Tariffs

OPASTCO T-Mobile’s request for “clarification” that the Commission’s pricing standards for
NTCA reciprocal compensation arrangements also applies to state termination tariffs is meritless and should be denied. The Commission clearly stated that by routing traffic to ILECs in the absence of interconnection agreements, CMRS providers were obligated to accept the terms of state wireless termination tariffs. The Order leaves no doubt that the previously filed tariffs were a permissible mechanism by which ILECs could obtain lawful compensation for the use of their networks and that CMRS providers were obligated to accept their terms.

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

National Association of State Utility Consumer Advocate’s Petition for Declaratory Ruling Regarding Truth-in-Billing CG Docket No. 04-208

Type OPASTCO, NTCA, and WTA Comments

Date June 24, 2005

Subject(s) FCC Further Notice of Proposed Rulemaking on truth-in-billing and billing format

OPASTCO The Commission should refrain from imposing costly burdens on rural ILECs
NTCA who have previously spent significant amounts of time and money on upgrading
WTA their billing systems and training employees. Before requiring small LECs to upgrade their billing systems yet again, the Commission should have hard

evidence that consumers will be helped by rules that create new categories of government mandated and non-mandated charges. Instead of forcing rural ILECs to modify their billing systems, the Commission should enforce its existing rules and punish any bad actors.

**Developing a Unified Intercarrier Compensation Regime
CC Docket No. 01-92**

Type Rural Alliance Comments

Date May 23, 2005

Subject(s) FNPRM seeking comment on developing a unified intercarrier compensation regime

Rural Alliance The Rural Alliance supports intercarrier compensation rates that are uniform for all types of traffic and based on each carrier's embedded costs. Any revenue reductions resulting from changes to intercarrier compensation should be offset through revenue replacement funds. In order to minimize the growth in the USF, the Commission should adopt benchmark local rates as part of any replacement funding. The Rural Alliance opposes mandatory bill and keep plans because they are not cost based, and will create new incentives for regulatory arbitrage. Transiting services should be cost-based and available under just and reasonable conditions. Rural carriers should have affordable and open access to IP backbone networks. Finally, universal service contributions should come from the broadest possible base of service providers.

**Wireless Broadband Access Task Force Seeks Public Comment on Task Force Report
GN Docket No. 04-163**

Type OPASTCO and RTG Comments

Date May 23, 2005

Subject(s) Wireless Broadband Access Task Force seeking public comment on the Task Force Report

OPASTCO RTG Small, rural ILECs have difficulty obtaining licensed spectrum through either auctions or the secondary market. Most attempts by OPASTCO or RTG members to obtain licensed spectrum from nationwide license holders for use in small geographic markets have been unsuccessful. Nationwide and regional license holders have little if no incentive to deal with small carriers. Although using unlicensed spectrum is less costly, licensed spectrum is preferable because of less inference and higher quality of service. Increased availability of licensed

spectrum to rural ILECs may spur the deployment of more wireless broadband in rural areas and the Commission should promote increased access to such spectrum.

**Lifeline and Link-Up
WC Docket No. 03-109**

Type OPASTCO, ITTA, NTCA, USTA, and WTA Comments

Date May 16, 2005

Subject(s) Request by the California Public Utilities Commission and the State of California for an extension of time to transition to the new criteria established by the FCC for states seeking reimbursement from the federal Lifeline/Link-Up programs

OPASTCO The Commission should grant California's request for a nine month compliance
ITTA extension to transition to the new criteria for states seeking reimbursement from
NTCA the federal Lifeline/Link-Up programs and extend the deadline to all affected
USTA parties. A March 2006 deadline would allow states to comply with federal default
WTA eligibility criteria and would enable service providers to develop verification
programs to better comply with the new rules.

**Accounting and Separations Information from Incumbent Local Exchange Carriers that
Receive Interstate Access Revenues on a Cost Basis
OMB Control No. 3060-XXXX**

Type OPASTCO, NECA, NTCA, USTA, and ITTA Comments

Date May 9, 2005

Subject(s) FCC Public Notice seeking input on a one-time data collection intended to help the Commission and the Joint Board determine whether to extend the separations freeze set to expire June 30, 2006

OPASTCO It appears that the information sought in the proposed data collection would
NECA impose significant and costly burdens on rural ILECs that would far exceed the
NTCA estimate of the burden contained in the Notice. Rural ILECs have stopped
USTA collecting the data and performing the traffic studies needed to develop
ITTA jurisdictional cost allocation factors since the separations freeze was adopted in 2001. Also, rural ILECs are generally unable to distinguish between traffic that was originated from or destined to the Internet and other types of traffic, so such information may not be available. The Commission should either refrain from collecting such data or clarify that it should only be supplied when readily available. Also, in light of the many proceedings initiated by the Commission

since the freeze was adopted that have a bearing on separations issues, there is a clear justification for extending the freeze without collecting further data.

**American Cable Association (ACA) Petition for Rulemaking
RM No. 11203**

Type OPASTCO Comments

Date April 18, 2005

Subject(s) American Cable Association (ACA) Petition for Rulemaking to amend broadcast exclusivity and retransmission consent regulations

OPASTCO The Commission should grant ACA's petition to adjust the current broadcast exclusivity and retransmission consent regulations. Current rules allow broadcasters to insist on payments for retransmission consent while also allowing them to block access to lower cost substitute sources of programming. ACA's proposed modification would allow smaller video providers to acquire content from alternative sources only when broadcasters choose to require additional cash payments or other consideration in exchange for retransmission consent. Granting ACA's petition will enhance access to affordable video content, which encourages further investment in broadband facilities in rural areas.

**Regulation of Prepaid Calling Card Services
WC Docket No. 05-68**

Type OPASTCO, NTCA, ITTA, and WTA Comments

Date April 15, 2005

Subject(s) (NPRM) seeking comment on the classification and jurisdiction of new forms of prepaid calling cards

OPASTCO All prepaid calling card services that are similar to the two variants of AT&T's
ITTA prepaid calling card service should continue to be classified as
NTCA telecommunications services. Classifying either of these prepaid calling service
WTA variations as information services would significantly exacerbate the opportunities for regulatory arbitrage under the existing intercarrier compensation regimes. Regardless of the incidental enhancements that are added to the calling cards by AT&T, these cards are purchased by consumers for one predominant purpose: to make telephone calls.

In addition, the FCC should not assert exclusive federal jurisdiction over prepaid calling card services that are classified as telecommunications services. Asserting

exclusive federal jurisdiction over these services would place additional pressures upon interstate mechanisms to replace revenue that rural ILECs would lose from intrastate sources which, if not addressed, would harm rural consumers.

Federal-State Joint Board on Jurisdictional Separations Seeking Comment on Communications Assistance for Law Enforcement Act (CALEA) Issues

Type OPASTCO and NTCA Comments

Date April 1, 2005

Subject(s) Federal-State Joint Board on Jurisdictional Separations seeking comment on jurisdictional separations issues related to CALEA

OPASTCO All CALEA-related costs should be assigned to the interstate jurisdiction
NTCA because they arise from a Federal mandate. Additionally, there is evidence that rural ILECs are receiving few CALEA-related requests from state and local law enforcement agencies. Generic upgrades that rural ILECs make for no other reason than to become compliant with CALEA should be considered related to CALEA compliance.

**National Exchange Carrier Association, Inc. Report on Timing of NECA Pool True-Up Submissions and FCC Form 492 Interstate Earnings Monitoring Reports
WC Docket No. 05-29**

Type OPASTCO, NTCA, ITTA, WTA and USTA Reply Comments

Date March 25, 2005

Subject(s) FCC Public Notice seeking comment on the Report filed by NECA concerning the timing of NECA pool true-up submissions and FCC Form 492 interstate earnings monitoring reports

OPASTCO The Associations urged the Commission to adopt the suggestions set forth
NTCA in NECA's *Report*. These include revising the 24-month rolling pool adjustment
ITTA window with a calendar-year adjustment mechanism and revising the deadline
WTA for Form 492 data submissions to January of the second year following a
USTA monitoring period. Adopting these changes will align the pool true-up submissions with ICLS and LSS data true-ups, and substantially increase the accuracy of pool earnings monitoring reports.

GCI argued that, instead of conforming the date for earnings monitoring reports to the ICLS and LSS schedule, the Commission should move the date for filing final support true-up data to conform to the current schedule for filing final Form 492

reports. However, the Commission has previously recognized that requiring rate-of-return companies to submit support true-up data by July of the year following a study period would impose undue burdens on them. The Associations are particularly concerned about any proposal to shorten cost study submission timelines in light of announced Commission plans to conduct hundreds of full-scale universal support audits in the coming years.

**National Exchange Carrier Association, Inc. Report on Timing of NECA Pool True-Up Submissions and FCC Form 492 Interstate Earnings Monitoring Reports
WC Docket No. 05-29**

Type OPASTCO, NTCA, ITTA, WTA and USTA Comments

Date March 4, 2005

Subject(s) FCC Public Notice seeking comment on the Report filed by NECA concerning the timing of NECA pool true-up submissions and FCC Form 492 interstate earnings monitoring reports

OPASTCO The Associations support NECA’s efforts to respond to the FCC’s concern
NTCA regarding timing differences between pool true-up submissions and FCC Form
ITTA 492 earnings monitoring reports. The FCC should encourage NECA in its efforts
WTA to work with member companies on improving the timeliness of cost study
USTA submissions, and should refrain from imposing unrealistic or inflexible time constraints on these processes. The FCC should carefully consider the recommendations contained in NECA’s Report including, in particular, NECA’s suggestion that the deadline for submitting final Form 492 earnings reports be moved from September of the year following a monitoring period to January of the second year succeeding a monitoring period. Finally, the Associations agree that the FCC should consider establishing guidelines for submitting corrections and/or true-ups to previously-reported data that are consistent across all programs.

**Petition of Sandwich Isles Communications, Inc. for Waiver of the Definition of “Study Area” Contained in Part 36, Appendix-Glossary and Section 36.611, and 69.2(hh) of the Commission’s Rules
CC Docket No. 96-45
DA 05-105**

Type OPASTCO Comments

Date February 8, 2005

Subject(s) The FCC’s Public Notice seeking comment on the Sandwich Isles Communications, Inc. petition requesting a study area waiver

OPASTCO Because the FCC incorrectly determined that Sandwich Isles' service area fell within the GTE/Verizon study area, the FCC should re-establish Sandwich Isles' study area without delay. Furthermore, Sandwich Isles has conclusively demonstrated that the study area definition waiver that it requests will not adversely affect the USF, has not generated any objection from the appropriate regulatory bodies, and will clearly serve the public interest. Therefore, OPASTCO urges the FCC to grant the requested study area definition waiver as expeditiously as possible.

**Local Telephone Competition and Broadband Reporting
WC Docket No. 04-141**

Type OPASTCO Paperwork Reduction Act Comments

Date February 7, 2005

Subject(s) The Notice of Information Collection being reviewed by the FCC in the local telephone competition and broadband reporting proceeding

OPASTCO The FCC now recognizes that the burden of its revised Form 477 is more extensive than it previously estimated. There has been no analysis demonstrating that the increased burden will offer any countervailing consumer benefits, or that it is otherwise justified. To the contrary, it will impede efforts to achieve the important policy goal of universal broadband deployment. Accordingly, until thorough analyses are performed that take the new, increased burden estimate into account, the current version of Form 477, along with the existing reporting threshold, should be retained for rural telephone companies.

**National Exchange Carrier Association, Inc. Proposed Modification of Average Schedule
Formulas
WC Docket No. 04-437
DA 05-79**

Type OPASTCO Comments

Date February 3, 2005

Subject(s) The FCC's Public Notice seeking comment on NECA's proposed modifications to the average schedule formulas for the period July 1, 2005 through June 30, 2006

OPASTCO NECA's proposed average schedule formulas would simulate the disbursements that would be received by a representative cost company. OPASTCO therefore recommends that the FCC promptly approve the formulas to become effective on

July 1, 2005 and consider the need for transitional support for any company that demonstrates a hardship from the settlement changes.

**Petition of Mid-Rivers Telephone Cooperative, Inc. for Order Declaring it to be an Incumbent Local Exchange Carrier in Terry, Montana Pursuant to Section 251(h)(2)
WC Docket No. 02-78
DA 04-3789**

Type OPASTCO Reply Comments

Date January 14, 2005

Subject(s) The FCC's Public Notice seeking comment on the Mid-Rivers Telephone Cooperative, Inc. petition requesting that it be classified as an ILEC in Terry, Montana

OPASTCO OPASTCO agrees with commenters that urge the FCC to grant Mid-Rivers' petition declaring it to be an ILEC in Terry, MT. Under Section 251(h)(2) of the Telecommunications Act of 1996, the FCC has the authority to classify a particular local exchange carrier as an ILEC if: (1) the carrier occupies a market position that is comparable to an incumbent; (2) the carrier has substantially replaced an ILEC; and (3) such reclassification is consistent with the public interest, convenience, and necessity. Mid-Rivers clearly meets this three-pronged test and should therefore be designated as an ILEC for the Terry, MT exchange.

**New Part 4 of the Commission's Rules Concerning Disruptions to Communications
ET Docket No. 04-35**

Type OPASTCO Petition for Reconsideration and Clarification

Date January 3, 2005

Subject(s) The FCC's Report and Order that extends mandatory outage-reporting requirements to all communications providers that provide voice and/or paging communications

OPASTCO Reconsideration is merited, in part, due to procedural issues that prevented the opportunity for public comment on the Report and Order's information collection requirements. In addition, the rules for information collection found in the Report and Order raise several concerns. Specifically, these concerns relate to: (1) the practicality of the 120 minute deadline for initial notification of a reportable outage; (2) the lack of clarity regarding when the 120 minute threshold for reporting should begin; and (3) the fact that the burden estimate does not account for information collection burdens imposed by provisions related to special

facilities and “best practices.” OPASTCO requests that the FCC rescind the applicability of the Report and Order’s information collection requirements to rural telephone companies, until such time as alternatives suitable to rural ILECs are crafted, clarification regarding the 120 minute threshold is provided, and a more thorough Paperwork Reduction Act analysis is performed.

EX-PARTE MEETINGS

Date December 13, 2005

Subject The OPASTCO Executive Committee met with Chairman Kevin Martin and staff to discuss USF and intercarrier compensation reform issues. To ensure a sufficient and sustainable USF for the long term, the Commission should establish the broadest possible base of contributors. To accomplish this, the Commission should require facilities-based broadband Internet access providers, over all platforms, to contribute to the USF. High-cost support for rural telephone companies should continue to be based on their own embedded costs. Support for CETCs in rural telephone company service areas should also be based on their own costs, not the incumbent carrier's costs. In addition, the Commission should not implement a system of block grants to the states for the distribution of federal high-cost support to rural telephone companies.

On the issue of intercarrier compensation reform, retail service providers should compensate network carriers for the use of their networks. For rate-of-return carriers, this should be based on embedded costs and unified at a single rate. An access revenue replacement mechanism needs to be established that enables rural telephone companies to fully recover the revenue losses that will result from lower intercarrier compensation rates. That mechanism should be separate from universal service and should not be portable.

Attendance Chairman Kevin Martin (FCC)
Michelle Carey (FCC)
Tom Navin (FCC)
Robert Williams (OPASTCO)
Chad Miles (OPASTCO)
Roger Nishi (OPASTCO)
Arturo Macias (OPASTCO)
Buddy Lovell (OPASTCO)
Greg Killpack (OPASTCO)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)

Date December 13, 2005

Subject The OPASTCO Executive Committee met with Commissioner Jonathan Adelstein and staff to discuss USF and intercarrier compensation reform issues. To ensure a sufficient and sustainable USF for the long term, the Commission should establish the broadest possible base of contributors. To accomplish this, the Commission should require facilities-based broadband Internet access providers, over all platforms, to contribute to the USF. High-cost support for

rural telephone companies should continue to be based on their own embedded costs. Support for CETCs in rural telephone company service areas should also be based on their own costs, not the incumbent carrier's costs. In addition, the Commission should not implement a system of block grants to the states for the distribution of federal high-cost support to rural telephone companies.

On the issue of intercarrier compensation reform, an access revenue replacement mechanism needs to be established that enables rural telephone companies to fully recover the revenue losses that will result from lower intercarrier compensation rates. That mechanism should be separate from universal service and should not be portable.

In addition, it is important for rural telephone companies to have access to affordable video content, since bundling video with broadband increases broadband "take rates." This is due, in part, to restrictive tying arrangements, which force rural carriers to purchase unwanted content in order to gain access to "flagship" channels.

Attendance Commissioner Jonathan Adelstein (FCC)
Scott Bergman (FCC)
Robert Williams (OPASTCO)
Chad Miles (OPASTCO)
Roger Nishi (OPASTCO)
Arturo Macias (OPASTCO)
Buddy Lovell (OPASTCO)
Greg Killpack (OPASTCO)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)

Date October 19, 2005

Subject OPASTCO representatives met with staff from the Wireline Competition Bureau to discuss reforming the contribution methodology for the USF. To ensure a sufficient, sustainable, and stable USF for the long term, the Commission should establish the broadest possible base of contributors. To accomplish this, the Commission should use its authority under the 1996 Act to assess other providers of interstate telecommunications. All facilities-based broadband Internet access providers, over all platforms, should contribute to the USF.

To maintain competitive neutrality, VoIP providers that are a substitute for traditional landline phone service should contribute to the USF. The Commission should also continue to require equitable contributions to the USF from IXC's, regardless of the methodology adopted.

Attendance Cathy Carpino (FCC)
Richard Lerner (FCC)
Rodger Woock (FCC)
Narda Jones (FCC)
Carol Pomponio (FCC)
James Lande (FCC)
Greg Guice (FCC)
James Eisner (FCC)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)

Date July 14, 2005

Subject OPASTCO representatives met with staff from the Wireline Competition Bureau to discuss its recommendations for the Universal Service Joint Board proceeding considering the appropriate rural high-cost support mechanism to succeed the Rural Task Force Order. Specifically, OPASTCO believes that: (1) support for all ETCs in rural service areas -- both ILECs and competitive ETCs -- should be based on the ETC's own embedded costs; (2) the support calculation methodology for rural ILECs should continue to be based on their study area average total network costs; and (3) the complete statutory definition of "rural telephone company" should continue to be used for determining which carriers are "rural" for universal service purposes.

Attendance Cathy Carpino (FCC)
Katie King (FCC)
Ted Burmesiter (FCC)
Gene Johnson (FairPoint Communications)
Roger Nishi (Waitsfield & Champlain Valley Telecom)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)

Date July 12, 2005

Subject Representatives from OPASTCO met with staff from the Wireline Competition Bureau on several issues. OPASTCO recommended that USAC should not end the practice of "netting" a carrier's delinquent contributions to the USF from their universal service support payments because small LECs heavily rely on high-cost support for cost recovery. OPASTCO also stated that support for all ETCs in rural service areas should be based on the ETC's own embedded costs. In addition, OPASTCO urged that some pooling option for ILECs' DSL-based service should be preserved in the event that DSL is reclassified as an information service. Finally, OPASTCO reiterated its support for the principles advanced by the Rural Alliance in the intercarrier compensation proceeding.

Attendance Tom Navin (FCC)
Jane Jackson (FCC)
Tamara Preiss (FCC)
Narda Jones (FCC)
Cathy Carpino (FCC)
Lisa Gelb (FCC)
Jeremy Marcus (FCC)
Steve Morris (FCC)
Ian Dillner (FCC)
Robert Williams (Oregon Farmer's Mutual Telephone Company)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)

Date March 17, 2005

Subject Representatives from OPASTCO met with Commissioner Kathleen Abernathy and her acting legal advisor, John Stanley to discuss the petition filed by Level 3 Communications that seeks forbearance from the assessment of access charges on IP to PSTN traffic. OPASTCO recommended that the petition be denied. Instead, the issues raised in the petition should be addressed in the FCC's proceeding on developing a unified intercarrier compensation regime. Grant of the Level 3 petition prior to comprehensive intercarrier compensation reform would only serve to exacerbate the regulatory arbitrage that the intercarrier compensation proceeding seeks to address.

Attendance Commissioner Kathleen Abernathy (FCC)
John Stanley (FCC)
Archie Macias (OPASTCO)
Roger Nishi (OPASTCO)
Stuart Polikoff (OPASTCO)
Steve Pastorkovich (OPASTCO)

Date March 17, 2005

Subject Representatives from OPASTCO met with Jessica Rosenworcel, legal advisor to Commissioner Michael Copps to discuss the petition filed by Level 3 Communications that seeks forbearance from the assessment of access charges on IP to PSTN traffic. OPASTCO recommended that the petition be denied. Instead, the issues raised in the petition should be addressed in the FCC's proceeding on developing a unified intercarrier compensation regime. Grant of the Level 3 petition prior to comprehensive intercarrier compensation reform would only serve to exacerbate the regulatory arbitrage that the intercarrier compensation proceeding seeks to address.

Attendance Jessica Rosenworcel (FCC)
Archie Macias (OPASTCO)
Roger Nishi (OPASTCO)
Stuart Polikoff (OPASTCO)
Steve Pastorkovich (OPASTCO)

Date March 17, 2005

Subject Representatives from OPASTCO met with Daniel Gonzalez, senior legal advisor to Commissioner Kevin Martin to discuss the petition filed by Level 3 Communications that seeks forbearance from the assessment of access charges on IP to PSTN traffic. OPASTCO recommended that the petition be denied. Instead, the issues raised in the petition should be addressed in the FCC's proceeding on developing a unified intercarrier compensation regime. Grant of the Level 3 petition prior to comprehensive intercarrier compensation reform would only serve to exacerbate the regulatory arbitrage that the intercarrier compensation proceeding seeks to address.

Attendance Daniel Gonzalez (FCC)
Archie Macias (OPASTCO)
Roger Nishi (OPASTCO)
Stuart Polikoff (OPASTCO)
Steve Pastorkovich (OPASTCO)

Date March 11, 2005

Subject Representatives from OPASTCO met with Commissioner Adelstein and his legal advisor, Scott Bergmann to discuss the petition filed by Level 3 Communications that seeks forbearance from the assessment of access charges on IP to PSTN traffic. OPASTCO recommended that the petition be denied. Instead, the issues raised in the petition should be addressed in the FCC's proceeding on developing a unified intercarrier compensation regime. Grant of the Level 3 petition prior to comprehensive intercarrier compensation reform would only serve to exacerbate the regulatory arbitrage that the intercarrier compensation proceeding seeks to address.

Attendance Commissioner Jonathan Adelstein (FCC)
Scott Bergmann (FCC)
Stuart Polikoff (OPASTCO)
Randy Tyree (OPASTCO)

Date February 23, 2005

Subject Representatives from OPASTCO, TDS Telecom, ITTA and WTA met with Daniel Gonzalez, senior legal advisor to Commissioner Martin, to discuss issues raised in recent *ex parte* letters concerning the process for designating ETCs entitled to receive support from the USF. Specifically, the meeting focused on the need for the FCC to establish concrete minimum eligibility criteria and review procedures for ETC applicants in areas served by rural telephone companies, including firm commitments and annual benchmarks for achieving full service coverage throughout the service areas in which the petitioner is seeking ETC designation. Also discussed was the need to develop enforcement procedures pursuant to which ETCs could temporarily be denied funding or could have their designation revoked for failure to comply with the ETC designation criteria and commitments on an ongoing basis.

Attendance Daniel Gonzalez (FCC)
Stuart Polikoff (OPASTCO)
Mary Newcomer Williams (TDS Telecom)
David Zesiger (ITTA)
Jay Driscoll (WTA)

Date February 18, 2005

Subject Representatives from OPASTCO, TDS Telecom and ITTA met with Scott Bergmann and Barry Ohlson, legal advisors to Commissioner Adelstein, to discuss issues raised in recent *ex parte* letters concerning the process for designating ETCs entitled to receive support from the USF. Specifically, the meeting focused on the need for the FCC to establish concrete minimum eligibility criteria and review procedures for ETC applicants in areas served by rural telephone companies, including firm commitments and annual benchmarks for achieving full service coverage throughout the service areas in which the petitioner is seeking ETC designation. Also discussed was the need to develop enforcement procedures pursuant to which ETCs could temporarily be denied funding or could have their designation revoked for failure to comply with the ETC designation criteria and commitments on an ongoing basis.

Attendance Scott Bergmann (FCC)
Barry Ohlson (FCC)
Stuart Polikoff (OPASTCO)
Mary Newcomer Williams (TDS Telecom)
Kathleen Wallman (TDS Telecom)
David Zesiger (ITTA)

Date February 16, 2005

Subject Representatives for OPASTCO, BellSouth, Quest, SBC, and Verizon met with Chairman Powell, FCC staff, and representatives of Level 3 Communications and other VoIP providers. The discussion concerned the current status quo for VoIP traffic, whether VoIP traffic can be reliably identified, how Level 3's petition seeks asymmetrical termination rates for IP– PSTN traffic, and how the granting or denial of Level 3's petition for forbearance from having to pay access charges on IP– PSTN traffic may affect reform of intercarrier compensation. OPASTCO, BellSouth, Quest, SBC and Verizon urged the Commission to deny Level 3's petition.

Attendance Chairman Michael Powell (FCC)
Chris Libertelli (FCC)
Aaron Goldberger (FCC)
Jeffrey Carlisle (FCC)
Michelle Carey (FCC)
Pamela Arluk (FCC)
Lisa Gelb (FCC)
Tom Navin (FCC)
John Stanley (FCC)
Linda Kinney (FCC)
Austin Schlick (FCC)
Jeremy Marcus (FCC)
Jennifer McKee (FCC)
Tamara Preiss (FCC)
Steve Morris (FCC)
Robert Williams (OPASTCO)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)
Jonathan Banks (BellSouth)
Bennett Ross (BellSouth)
Cronan O'Connell (Quest)
Wendy Moser (Quest)
James C. Smith (SBC)
Jack Zinman (SBC)
Mike Glover (Verizon)
Kathy Grillo (Verizon)
John Nakahata (Level 3)
Bill Heinz (Level 3)
Roger Ducloo (Level 3)
John Ryan (Level 3)
Tim Simeone (Level 3)
Bill Wilhelm (Vonage)
Brooke Schulz (Vonage)
Jim Kohlenberger (VON Coalition)

Date February 15, 2005

Subject Representatives from OPASTCO, TDS Telecom, and WTA met with Christopher Libertelli, senior legal advisor to Chairman Powell, to discuss issues raised in recent *ex parte* letters concerning the process for designating ETCs entitled to receive support from the USF. Specifically, the meeting focused on the need for the FCC to establish concrete minimum eligibility criteria and review procedures for ETC applicants in areas served by rural telephone companies. Also, discussed was the need to develop enforcement procedures pursuant to which ETCs could temporarily be denied funding or could have their designation revoked for failure to comply with the ETC designation criteria and commitments on an ongoing basis.

Attendance Christopher Libertelli (FCC)
Stuart Polikoff (OPASTCO)
Mary Newcomer Williams (TDS Telecom)
Kathleen Wallman (TDS Telecom)
Jay Driscoll (WTA)

Date February 11, 2005

Subject Representatives from OPASTCO, TDS Telecom, ITTA and WTA met with Jessica Rosenworcel, competition and universal service legal advisor to Commissioner Copps, to discuss issues raised in recent *ex parte* letters concerning the process for designating ETCs entitled to receive support from the USF. Specifically, the meeting focused on the need for the FCC to establish concrete minimum eligibility criteria and review procedures for ETC applicants in areas served by rural telephone companies. Also, discussed was the need to develop enforcement procedures pursuant to which ETCs could temporarily be denied funding or could have their designation revoked for failure to comply with the ETC designation criteria and commitments on an ongoing basis.

Attendance Jessica Rosenworcel (FCC)
Stuart Polikoff (OPASTCO)
Mary Newcomer Williams (TDS Telecom)
Kathleen Wallman (TDS Telecom)
David Zesiger (ITTA)
Jay Driscoll (WTA)

Date January 27, 2005

Subject Representatives from OPASTCO, NTCA, ITTA, and WTA met with Jennifer Manner, Commissioner Abernathy's senior counsel, to discuss AT&T's Petition

for Declaratory Ruling regarding its enhanced prepaid calling card services. The Associations believe that the Commission should deny AT&T's petition and require immediate payment of the \$500 million in past due intrastate access charges and USF contributions.

Attendance Jennifer Manner (FCC)
Stuart Polikoff (OPASTCO)
Daniel Mitchell (NTCA)
Rick Schadelbauer (NTCA)
David Zesiger (ITTA)
Jay Driscoll (WTA)

OTHER FILINGS

Type Written *Ex Parte* letter to the FCC

Date November 17, 2005

Subject(s) OPASTCO sent a letter to FCC Chairman Kevin Martin nominating Edwin Eichler to the USAC board as representative of ILECs with annual reporting revenues of \$40 million or less. Mr. Eichler is OPASTCO's 1997 Chairman and President of Pigeon Telephone Company in Pigeon, Michigan, and has significant access and universal service experience spanning 20 years.

Type Rural Alliance Written *ex parte* Presentation to the FCC

Date November 1, 2005

Subject(s) The Rural Alliance submitted an *ex parte* presentation to the FCC detailing the Alliance's plan for a pricing methodology. That pricing plan includes: intercarrier compensation rates that are unitary (interstate and intrastate, access and reciprocal compensation) based on parts 36 and 69. This would comply with the additional cost standard in section 252(d)(2) of the 1996 Act and the long-standing regulatory tenet of setting fair, just, and reasonable rates. The formula for setting rates should include non-jurisdictional embedded, interoffice traffic-sensitive costs in the numerator and total non-jurisdictional access and reciprocal compensation minutes in the denominator. Allowable traffic-sensitive costs should be computed at the interstate authorized rate of return of 11.25 percent using interstate allowances and disallowances and a standardized Cost Allocation Manual. Existing reciprocal compensation rates should continue through the contract term and once expired, a unitary rate supplied by the Rural Alliance plan, should apply. Extended Area Service arrangements in place as of the implementation of the pricing methodology would continue to be settled as they are currently.

Type Written *Ex Parte* letter to the FCC

Date August 10, 2005

Subject(s) OPASTCO, NTCA, and WTA sent a letter to Consumer and Governmental Affairs Bureau Chief Monica Desai clarifying their position about certain proposals regarding truth-in-billing requirements. The Associations believe that carriers should be permitted to continue current practices of informing customers of reasonable estimates of any applicable taxes, surcharges, and fees and provide more detailed information upon request. Rather than impose detailed,

burdensome, and costly new regulations regarding disclosures, the Commission should enforce disclosure requirements by investigating complaints and punishing any bad actors. The Associations oppose proposals to impose the terms and conditions of the legal settlement agreements between certain wireless carriers and several state attorneys general offices across the industry. The settlements were privately negotiated agreements and there is no evidence to support imposing the terms of the agreements across the entire telecommunications industry.

Type Written *Ex Parte* letter to the FCC

Date July 22, 2005

Subject(s) OPASTCO, NECA, ITTA, NTCA, and USTelecom sent a letter to the Commission reminding them that mandatory deregulation of wireline broadband services may force rate of return carriers to increase DSL rates or refrain from enhancing broadband services. Accordingly, the Commission should continue to permit rate of return carriers to offer broadband transmission services under tariff, and to participate in NECA revenue pooling processes, in whatever regulatory framework it may establish for wireline broadband services generally.

Virgin Islands Corporation (VITELCO) v. FCC

Type Reply Brief for Intervenors in Support of Petitioner Virgin Islands Telephone Company

Date July 1, 2005

Subject(s) OPASTCO, NECA, NTCA, ITTA, and USTA filed, with the D.C. Circuit Court of Appeals, a reply brief in support of Petitioners in the matter of *Virgin Islands Corporation (VITELCO) v. FCC*.

OPASTCO
NECA
NTCA
ITTA
USTA

The Associations' reply brief argues that the FCC's new claim that suspension orders forever prevent tariffs from being deemed lawful and cannot be vacated by either the Wireline Competition Bureau (Bureau) or the FCC is not properly before the Court and is wrong on the merits. In the brief, the Associations' assert that Section 155(c) does not prevent the Bureau from reconsidering, and vacating, a decision to suspend a tariff and that under § 204(a)(3), a vacated suspension order is not an FCC action that prevents a tariff from being deemed lawful.

Type Written *Ex Parte* letter to the FCC

Date June 2, 2005

Subject(s) OPASTCO sent an *ex parte* letter to the Commission in support of a T-Mobile/Rural Telecommunications Group (RTG) proposal to revise the band plan for Advanced Wireless Services (“AWS”) in the 1710-1755 and 2110-2155 MHz bands. The proposal recommends that the Commission divide the 30 MHz AWS E Block licenses into three constituent parts and incorporate those parts into a modified AWS band plan. The plan creates an opportunity for six separate bidders to obtain a license rather than five and allows one of those licenses to cover twenty megahertz of spectrum devoted to smaller geographic areas. This proposal would make licenses more affordable, would more closely approximate the areas that small carriers are interested in serving, and would ultimately lead to more rural carrier participation in auctions.

Virgin Islands Corporation (VITELCO) v. FCC

Type Brief for Intervenors and *Amicus Curiae* in Support of Petitioner Virgin Islands Telephone Company

Date May 3, 2005

Subject(s) OPASTCO, NECA, NTCA, ITTA, and USTA filed, with the D.C. Circuit Court of Appeals, a brief in support of Petitioners in the matter of *Virgin Islands Corporation (VITELCO) v. FCC*

OPASTCO VITELCO’s petition seeks review of an FCC action as it relates to a specific tariff
NECA filed by VITELCO pursuant to Section 204(a)(3) of the Communications Act of
NTCA 1934, as amended. VITELCO’s tariff was suspended by the Wireline
ITTA Competition Bureau (Bureau) in order to obtain an additional 30 days to review
USTA the tariff. That decision was later reconsidered, and the suspension order was set
aside. The FCC has taken the position that because the Bureau’s Reconsideration
Order did not discuss the consequences of the deemed lawful status of the tariff,
that the suspension order was not retroactively nullified. The Association’s brief
argues that as a result, the suspension order did not constitute an action under 47
U.S.C. §204(a)(1) preventing VITELCO’s tariff from being deemed lawful under
§204(a)(3). The brief also highlights situations where the FCC has suspended
tariffs filed by NECA and/or its members and, after failing to reach any adverse
conclusions with respect to those tariffs, reconsidered those suspension orders.
The Associations argue that it would now be unreasonable and unlawful for the
Commission to assert that those tariffs have been stripped of “deemed lawful”
status under the Act.

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

Date April 6, 2005

Subject(s) OPASTCO submitted this testimony in order to seek the Subcommittee's support for FY 2006 loan levels for the telecommunications loans program administered by the Rural Utilities Service (RUS) in the following amounts:

5% hardship loans:	\$145 million
Treasury Rate loans:	\$425million
Guaranteed loans:	\$125 million

In addition, OPASTCO requested the following action by the Subcommittee: (1) eliminate the five percent limitation on the retirement of Class A stock of the Rural Telephone Bank (RTB); (2) maintain the prohibition on the transfer of unobligated RTB funds to the general fund of the Treasury and the requirement that interest be paid on these funds; and (3) fund the distance learning, telemedicine, and broadband program at sufficient levels.

Furthermore, OPASTCO stated that it is receptive to the Administration's proposal to dissolve the RTB, assuming it can be accomplished in a manner that equitably compensates the private Class B and C stockholders for their holdings in the bank.

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

Date April 6, 2005

Subject(s) OPASTCO submitted this testimony in order to seek the Subcommittee's support for FY 2006 loan levels for the telecommunications loans program administered by the Rural Utilities Service (RUS) in the following amounts:

5% hardship loans:	\$145 million
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In addition, OPASTCO requested the following action by the Subcommittee: (1) eliminate the five percent limitation on the retirement of Class A stock of the Rural Telephone Bank (RTB); (2) maintain the prohibition on the transfer of unobligated RTB funds to the general fund of the Treasury and the requirement that interest be paid on these funds; and (3) fund the distance learning, telemedicine, and broadband program at sufficient levels.

Furthermore, OPASTCO stated that it is receptive to the Administration's proposal to dissolve the RTB, assuming it can be accomplished in a manner that equitably compensates the private Class B and C stockholders for their holdings in the bank.

Type Letter to the President of the United States

Date February 8, 2005

Subject(s) OPASTCO sent a letter to the President, requesting that he appoint Commissioner Kevin Marin as chairman of the FCC. OPASTCO feels that Commissioner Martin's proven leadership and vision makes him an ideal choice to lead the FCC.

Type Written *Ex Parte* letter to the FCC

Date February 1, 2005

Subject(s) OPASTCO sent an *ex parte* letter to Chairman Powell and Commissioners Abernathy, Adelstein, Copps, and Martin. The letter urged the Commission to adopt a strong set of standardized minimum criteria for use by state commissions and the FCC when evaluating whether applicants are qualified to be designated as ETCs in rural service areas. Just as important, it is critical that the FCC ensure that its bureaus consistently and rigorously apply whatever guidelines are adopted. OPASTCO recommended seven specific standardized minimum criteria for both state and federal regulators to use when evaluating ETC applications for areas served by rural telephone companies.

Type Notification to the Court of Appeals for the District of Columbia Circuit to file a separate brief in support of petitioner

Date January 13, 2005

Subject(s) OPASTCO, NECA, NTCA, ITTA, and USTA requested from the D.C. Circuit Court of Appeals the opportunity to file a brief in *Virgin Islands Corporation (VITELCO) v. FCC*. The Associations would file on the side of the petitioner, VITELCO. VITELCO's petition seeks review of an action of the FCC as it relates to a specific tariff filed by VITELCO pursuant to Section 204(a)(3) of the Communications Act of 1934, as amended. If granted leave to do so, the Associations will file a separate brief that demonstrates the potential adverse impact of the Commission's decision on tariffs filed by telephone companies other than VITELCO. In particular, the Associations' brief will highlight situations where the FCC has suspended tariffs filed by NECA and/or its members and, after failing to reach any adverse conclusions with respect to those tariffs, reconsidered those suspension orders. The Associations will show that it would now be unreasonable and unlawful for the Commission to assert that those tariffs have been stripped of "deemed lawful" status under the Act.

Type Written *Ex Parte* letter to the FCC

Date January 10, 2005

Subject(s) OPASTCO, ITTA, NECA, NTCA, USTA and WTA sent an *ex parte* letter to Chairman Powell and Commissioners Abernathy, Martin, Copps and Adelstein. The letter concerned AT&T Corp.'s petition for declaratory ruling regarding enhanced prepaid calling card services. The letter urged the Commission to act swiftly to end AT&T's unlawful evasion of intrastate access charges and required universal service contributions related to a prepaid calling card service that it offers. The Associations urged the Commission to reaffirm that the calling card service that is the subject of AT&T's petition is a telecommunications service on which payment of intrastate access charges is owed when calls made using that service connect parties within a single state and further, that AT&T must make USF contributions on interstate revenue derived from calls made using that service. In addition, the Associations strenuously urge the Commission not to condone AT&T's unlawful behavior, but rather to require AT&T to make both prospective *and retroactive* intrastate access charge payments and both prospective *and retroactive* USF contributions.