

OPASTCO

2006

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 2006 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

Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming MB Docket No. 06-189

Type	OPASTCO Reply Comments
Date	December 29, 2006
Subject(s)	Annual assessment of the status of competition in the market for the delivery of video programming.
OPASTCO	<p>Small carriers continue to expand video offerings to consumers, often using new technologies to do so. Yet significant barriers to entry into the video market by rural carriers remain, and continue to impede the Commission's goals of increased video competition and more widespread broadband deployment. Restricted access to programming content at affordable rates and under reasonable conditions hinders rural carriers' ability to provide video services.</p> <p>The retransmission consent regime and the practice of tying arrangements, also known as forced carriage, also impedes rural carriers' abilities to provide video. Mandatory non-disclosure terms skew the competitive marketplace, and small carriers using economical shared head-ends are facing potential restrictions or even loss of access to content. Predatory pricing by large cable providers further discourages market entry by rural carriers.</p> <p>There are specific actions the Commission can take in order to alleviate a number of the obstacles faced by small carriers. The Commission should: (1) extend the prohibition against exclusive contracts for programming; (2) grant the American Cable Association's (ACA) petition on retransmission consent, and adopt suggested rule changes; (3) examine the impacts of forced carriage on video competition, and recognize that such tying constitutes an unfair trade practice that hinders the provision of video services; (4) liberalize discovery rules to provide carriers with the ability to demonstrate unfair practices; (5) clarify that the use of shared head-ends cannot be used as an excuse to deny access to content nor impose unwarranted and burdensome financial or technological obligations; and (6) re-examine the interpretation of "effective competition" to reduce abusive predatory pricing practices.</p>

**National Cable & Telecommunications Association's Request for
Waiver of 47 CFR § 76.1204(a)(1)
CS Docket No. 97-80
CSR 7056-Z**

Type OPASTCO Reply Comments

Date December 11, 2006

Subject(s) National Cable & Telecommunications Association's (NCTA) request for Waiver of Section 76.1204(a)(1) of the Commission's rules.

OPASTCO The current high cost of separate set-top devices justifies a temporary waiver of Section 76.1204(a)(1), which bans integration and security functions in one device. At the very least, the waiver should be granted for rural ILECs that serve as Multichannel Video Programming Distributors (MVPDs). In the absence of a waiver, consumers will be required to bear the associated costs without the corresponding benefits. The grant of the waiver is especially appropriate for the increasing number of small MVPDs that provide Internet Protocol television (IPTV) utilizing fiber or copper-based digital subscriber line (DSL) technology. In the absence of a waiver for these MVPDs, IPTV deployments risk facing an unnecessary complication, to the detriment of consumers.

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

Type OPASTCO, NECA, NTCA, and ERTA Comments

Date December 7, 2006

Subject(s) Public Notice seeking comment on the Missoula Plan Phantom Traffic Interim Process and Call Detail Records Proposal.

OPASTCO Phantom traffic is a significant problem for local exchange carriers (LECs),
NECA particularly those relying heavily on intercarrier compensation to maintain
NTCA networks and provide services to customers living in high-cost rural areas.
ERTA The interim phantom traffic rules proposed as part of the Missoula Plan and incorporated in the instant supplemental filing will substantially improve the labeling and billing of all traffic that originates, transits, or terminates on the public switched telephone network (PSTN). The Associations have in their respective comments each urged the Commission to act favorably with respect to the Missoula Plan. Recognizing the urgency of the problem and the time it will take carriers to implement revised rules, the Associations jointly urge the Commission to take immediate action on the proposed

interim phantom traffic solution, and proceed, without delay, with full consideration and prompt adoption of the remainder of the Missoula Plan.

**Jurisdictional Separations and Referral to the Federal-State Joint Board
CC Docket No. 80-286**

Type OPASTCO, ITTA, NECA, NTCA, and ERTA Reply Comments

Date November 20, 2006

Subject(s) Further Notice of Proposed Rulemaking (FNPRM) seeking comment on comprehensive solutions to separations reform.

OPASTCO The Commission should not undertake comprehensive reform of the
ITTA separations rules at this time, but should instead direct its attention
NECA toward resolving ongoing related proceedings on intercarrier
NTCA compensation reform, universal service reform, and Internet Protocol (IP)-
ERTA enabled services. The Commission should also refrain from arbitrary
allocations of additional costs to special access services as suggested by
state regulators and consumer advocates. The allocation of additional
costs to special access services could substantially increase the price of
broadband service, particularly in areas served by rate-of-return (RoR)
carriers. Furthermore, the Commission should refrain from issuing a
separations data request at this time. Attempts to generate this information
would be burdensome and expensive, as carriers generally have not
maintained data on separations results since the freeze was imposed.

The Commission should consider recommendations by the Associations
and other parties for minor changes to the separations rules. Section
36.125(j) of the Commission's rules should be modified to allow small
incumbent local exchange carriers (ILEC) that have a decrease in access
lines and who cross a dial equipment minute (DEM) weighting threshold
to adjust their DEM weighting factor upward to its proper level. The
current rule reduces certain cost allocation amounts for companies that
would otherwise qualify for a higher DEM weighting factor. The
Commission should also provide RoR carriers with a one-time option to
freeze or unfreeze their category relationships for the remainder of the
separations freeze. This would allow carriers to recognize changes in
network technology without incurring the administrative costs associated
with revised annual studies.

**Federal-State Joint Board on Universal Service Seeks Comment On the Merits of
Using Auctions to Determine High-Cost Universal Service Support
WC Docket No. 05-337**

Type OPASTCO Reply Comments

Date November 8, 2006

Subject(s) Public Notice seeking comment on the merits of using auctions to determine high-cost universal service support

OPASTCO Many commenters, like OPASTCO, warn that a reverse auctions support system for the rural High-Cost program would not naturally encourage the network upgrades and service quality improvements necessary to ensure that consumers in rural service areas have access to services that are comparable to those offered in urban areas. Commenters also agree that a reverse auctions high-cost support system would hinder the ability of rural ILECs to attract the capital necessary for network investment.

The Joint Board should reject the blatantly self-serving and inefficient proposals by commenters representing competitive eligible telecommunications carriers (CETC) that would allow *all* existing CETCs to continue to receive high-cost support. The Joint Board should also reject proposals by a few reverse auctions supporters arguing that price should be the sole criteria for choosing the winning bidder(s). This approach would prevent policymakers from exercising their judgment and considering critical factors such as a carrier's service quality, service capabilities, and their commitment to serving the entire area.

The record in this proceeding supports focusing efforts to address the unnecessary growth in the rural High-Cost program on the source of the problem – CETCs and the identical support rule. The Joint Board should also recommend that high-cost support for rural ILECs continue to be based on their actual embedded costs and that the high-cost support mechanism continues to be bifurcated based on the 1996 Act's definition of "rural telephone company."

**Federal-State Joint Board on Universal Service
2007 Modification of Average Schedule Universal Service High-Cost Loop Support
Formula and the 2007 Average Schedule Company Local Switching Support
Formula
CC Docket No. 96-45**

Type OPASTCO Comments

Date November 1, 2006

Subject(s) National Exchange Carrier Association's (NECA) proposed modifications to the average schedule universal service High-Cost Loop Support (HCLS) formula for 2007

OPASTCO NECA's proposed HCLS formula is a fair, unbiased estimator of smaller average schedule companies' cost per loop, which relates well to what these companies would receive if their expense adjustments were based on their individual costs. The formula conforms to the Commission's Part 69 rules, which require that formulas produce disbursements to average schedule companies that simulate the disbursements that would be received by representative cost companies. The Wireline Competition Bureau should therefore promptly approve the formula as filed to take effect on January 1, 2007.

**Developing a Unified Intercarrier Compensation Regime
Comment Sought on Missoula Intercarrier Compensation Reform Plan
CC Docket No. 01-92**

Type OPASTCO Comments

Date October 25, 2006

Subject(s) Public Notice seeking comment on the Missoula Intercarrier Compensation Reform Plan

OPASTCO The FCC should adopt the Missoula Plan. The Plan effectively and comprehensively reforms the existing intercarrier compensation rules by providing carriers with a more rational and stable means of recovering network costs. At the same time, the Plan appropriately recognizes the differences between carriers of different size and regulatory classification. More importantly, the Plan would be beneficial to consumers nationwide, including the customers of rural ILECs.

Of utmost importance to the customers of rural RoR regulated ILECs are the inclusion of certain "rural" distinctions and other provisions in the Plan that recognize the unique needs and circumstances of rural RoR carriers. These provisions include: (1) a Restructure Mechanism that allows rural RoR ILECs to fully recover the revenues that are lost from the reduction of intercarrier rates; (2) the unification of rural RoR ILECs' inter- and intrastate access charges at interstate cost-based rates; (3) a limitation on the obligations of rural ILECs to undertake financial responsibility for the transport of traffic beyond their networks; (4) a broadened contribution base for the Universal Service Fund (USF) and the

Restructure Mechanism; and (5) providing rural RoR ILECs in Track 3 with the option to elect Track 2 or Track 1, and to elect incentive regulation. In order for the Missoula Plan to remain beneficial to the customers of rural RoR ILECs, it is essential that the FCC adopt all of these provisions without modification.

**Federal-State Joint Board on Universal Service Seeks Comment On the Merits of Using Auctions to Determine High-Cost Universal Service Support
WC Docket No. 05-337**

Type OPASTCO Comments

Date October 10, 2006

Subject(s) Public Notice seeking comment on the merits of using auctions to determine high-cost universal service support

OPASTCO The use of reverse auctions in rural service areas poses significant risks to the continued availability of “reasonably comparable” services and rates to rural consumers. Reverse auctions do not naturally encourage network upgrades and service quality improvements. In addition, reverse auctions would likely make the capital markets more reluctant about making new loans to rural ILECs. Furthermore, if a winning bidder (other than a rural ILEC) fails to meet the performance expectations established by regulators, there may not be a backup carrier capable of taking over the role of universal service provider.

Reforms to contain the unnecessary growth in the rural High-Cost program should be tailored to directly target the root cause of the problem –CETCs and the identical support rule. The Joint Board should recommend that the identical support rule for CETCs in rural service areas be eliminated and that support for these carriers be based on their own costs.

If, despite the substantial risks, the Joint Board still decides to recommend the use of reverse auctions for rural service areas, there are certain provisions that should be included. First, before applying reverse auctions to rural ILECs, they should first be tried for a significant period of time with non-ILEC (competitive) carriers. Second, rural ILECs should have an opportunity to recover the cost of network investments that were made prior to the adoption of reverse auctions. Third, if reverse auctions are ultimately applied to both rural ILECs and competitive carriers, there should be one wireline and one wireless winner in each rural service area. Fourth, price should not be the sole criteria for selecting auction winners in rural service areas. Finally, if a rural ILEC is not selected as an auction

winner, its end user rates should be deregulated and it should be relieved from carrier of last resort obligations.

**Service Rules for the 698-746, 747-762 and 777-792 MHz Bands
WT Docket No. 06-150**

**Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911
Emergency Calling Systems
CC Docket No. 94-102**

**Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible
Telephones
WT Docket No. 01-309**

Type OPASTCO Comments

Date September 29, 2006

Subject(s) Service rules for wireless spectrum in the 700 MHz band

OPASTCO The Commission should take steps to make spectrum in the 700 MHz band more easily attainable for small, rural wireless carriers. Specifically, the Commission should license spectrum in the 700 MHz Band over smaller geographic service areas that small, rural wireless carriers have a realistic ability to acquire. In addition, the Commission can facilitate greater competition in the wireless market and promote the spread of wireless services to additional consumers by establishing "entrepreneurs' blocks" of spectrum reserved for small, rural wireless carriers and other new entrants. Finally, the Commission should adopt a triggered "keep what you use" re-licensing mechanism that allows a carrier willing and able to serve rural consumers to acquire spectrum from an existing licensee that is not adequately deploying wireless services in the rural portion of the license area.

**Jurisdictional Separations and Referral to the Federal-State Joint Board
CC Docket No. 80-286**

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

Date August 22, 2006

Subject(s) FNPRM seeking comment on comprehensive solutions to separations reform.

OPASTCO Since adopting the separations freeze in 2001, the Commission has
NECA commenced several other critical proceedings that could have a direct
ITTA bearing on the reform of jurisdictional separations, including intercarrier
NTCA compensation reform, high-cost universal service reform, and the
ERTA regulatory treatment of IP-enabled services. All remain unresolved at this
point, but could affect the types of reforms that may need to be made to
the Commission’s Part 36 separations rules. The Associations suggest that
the Commission defer consideration of comprehensive separations reform
proposals until certain key intercarrier compensation and high-cost
universal service reform issues raised in these separate but related
proceedings are resolved.

Rather than attempt fundamental reform of the separations rules, the
Commission should only make certain minor changes to the Part 36 rules
at this time. Specifically, the Commission should correct the one-way
“ratchet” rule for DEM weighting allocations, which fails to allow small
ILECs to increase their DEM weighting allocation when they incur a
decrease in access lines and cross a DEM weight threshold. The
Commission should also provide RoR carriers with a one-time opportunity
to freeze or unfreeze their category relationships for the remainder of the
overall interim freeze.

Finally, the Commission should refrain from issuing data requests at this
time. Since the freeze was imposed, carriers have not generally
maintained data on separations results, and therefore cannot meaningfully
answer some of the questions asked. Also, other information sought in the
draft data request (*e.g.*, information on broadband deployment) is to some
extent being provided to the Commission in other contexts.

**AT&T, Bellsouth, and Qwest Petitions for Forbearance Under 47 U.S.C. §160(c)
from Title II and *Computer Inquiry* Rules with Respect to Broadband Services
WC Docket No. 06-125**

**Petition of the Embarq Local Operating Companies for Forbearance Under 47
U.S.C. §160(c) from Application of *Computer Inquiry* and Certain Title II Common-
Carriage Requirements
WC Docket No. 06-147**

**Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C.
§160(c) from Title II and *Computer Inquiry* Rules with Respect to Their Broadband
Services
WC Docket No. 04-440**

Type OPASTCO Comments

Date August 17, 2006

Subject(s) Petitions filed by AT&T, Bellsouth, Qwest, and Embarq requesting forbearance from Title II regulation and *Computer Inquiry* Rules with respect to certain broadband services.

OPASTCO The Commission’s decision to allow Verizon’s Petition for Forbearance from Title II and the *Computer Inquiry* rules for certain broadband services to take effect by operation of law has given rise to substantial uncertainty throughout the industry. Of particular concern to rural ILECs is whether or not Verizon was relieved of its USF contribution obligation for the services that were granted regulatory forbearance. The Commission should address this uncertainty by issuing a clarifying Order that states that the grant of Verizon’s forbearance petition in no way relieved Verizon from its obligation to contribute to the USF for the broadband services at issue in its petition. Similarly, if the Commission decides to grant any of the outstanding forbearance petitions, it should do so explicitly and make clear that these carriers are not relieved from their USF contribution obligation for these services.

There is uncertainty regarding the exact broadband services for which Verizon was granted regulatory relief, as well as the services for which forbearance is being sought by the Petitioners. Therefore, the clarifying Order on Verizon’s petition should clearly list and describe the services for which Verizon was granted regulatory relief. Likewise, should the Commission decide to grant any of the outstanding petitions, the Order(s) should list and describe the services for which forbearance is granted, using the same terms and descriptive language to the greatest extent possible.

Finally, the Commission should carefully consider the potential long-term impact that the deregulation of the broadband services at issue in these petitions may have on rural ILECs’ access to the Internet backbone. Rural ILECs need access to the Internet backbone at reasonable and nondiscriminatory rates and terms in order to provide their customers with high-quality, affordable advanced services.

Petition of Core Communications, Inc. for Forbearance from Sections 251(g) and 254(g) of the Communications Act and Implementing Rules WC Docket No. 06-100

Type OPASTCO, ITTA, NECA, and NTCA Comments

Date June 5, 2006

Subject(s) Petition of Core Communications, Inc. for forbearance of sections 251(g) (preservation of access charges) and 254(g) (toll rate averaging) of the Telecommunications Act of 1996.

OPASTCO The Commission should deny Core Communication’s petition for
ITTA forbearance because they have not met the standards for forbearance
NECA specified in section 10(a) of the Act. First, Core has failed to demonstrate
NTCA that it has the necessary jurisdictional standing to request forbearance
either on its own behalf or on behalf of other carriers that it does not
represent. Section 10(c) only allows a carrier to request forbearance on its
own behalf. As a competitive local exchange carrier (CLEC), Core is not
subject to sections 251(g) or 254(g).

Second, Core provides no support for its argument that forbearance would end regulatory arbitrage, would lead to interconnection charges that are just and reasonable, and would prevent harm to rural consumers. In fact, replacement of access charges with reciprocal compensation would cause significant shortfalls in cost recovery for rate-of-return carriers. Core makes no attempt to account for these adverse impacts that would result from a grant of their forbearance petition. The Commission should allow the ongoing process of industry discussions on intercarrier compensation reform to continue and should reject Core’s attempt to short-circuit the process. Finally, if the Commission were to grant Core’s petition for forbearance from the section 254(g) rate averaging requirements, consumers in rural and insular areas might find themselves paying substantially higher rates for long-distance calls than their urban counterparts.

Numbering Resource Optimization CC Docket No. 99-200

Type OPASTCO Comments

Date May 15, 2006

Subject(s) Notice of Proposed Rulemaking (NPRM) seeking comment on whether the Commission should delegate to the states the authority to implement mandatory thousands-block number pooling in areas outside the top 100 metropolitan statistical areas (MSAs) at their discretion

OPASTCO The FCC should give state commissions delegated authority to implement mandatory thousands-block number pooling at their discretion, but at the same time direct them to exempt from participation rural ILECs that have not received a request for local number portability (LNP). Such a

directive would be consistent with prior Commission rulings which recognize that the benefits of requiring rural carriers that have not received a request for LNP to participate in thousands-block number pooling do not outweigh the cost burdens it would impose on them and their customers. The implementation of thousands-block number pooling is a valid measure to postpone the need for area code relief and is preferable to area code splits and overlays. However, OPASTCO is opposed to mandatory thousands-block number pooling in circumstances where it is not justified, such as in areas served by rural telephone companies that lack competition.

Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information
CC Docket No. 96-115

Petition for Rulemaking to Enhance Security and Authentication Standards for Access to Customer Proprietary Network Information
RM-11277

Type OPASTCO Comments

Date April 28, 2006

Subject(s) NPRM seeking comment on various security measures intended to further protect the privacy of consumer proprietary network information (CPNI) that is collected and held by telecommunications carriers

OPASTCO It is critical that any additional CPNI regulations adopted for rural ILECs do not impose unreasonable costs and burdens on them and will provide real benefits for rural consumers. The Commission should not require rural ILECs to maintain audit trails or encrypt CPNI because the cost of compliance for these carriers would far outweigh any benefits for rural consumers. The Commission should retain the existing opt-out regime for rural ILECs with respect to sharing CPNI with third-party vendors, particularly third-party billing specialists that require access to CPNI to generate rural ILECs' customer bills. Also, rural ILECs should be afforded flexibility as to when and how to notify customers of CPNI security breaches and whether or not to implement consumer-set passwords based on the needs and desires of their subscribers. The Commission should also ensure that any new limits on data retention do not conflict with existing state and federal retention rules. Finally, OPASTCO is accepting of the Commission's tentative conclusion to require carriers to annually file a CPNI compliance certification in order to assist the Commission's efforts to enforce its CPNI rules.

**Application of Time Warner Cable Information Services (South Carolina), LLC
d/b/a Time Warner Cable to Amend its Certificate of Public Convenience and
Necessity to Provide Interexchange and Local Voice Services in Service Areas of
Certain Incumbent Carriers who Currently have a Rural Exemption
WC Docket No. 06-54**

**Petition of Time Warner Cable for Declaratory Ruling That Competitive Local
Exchange Carriers May Obtain Interconnection Under Section 251 of the
Communications Act of 1934, as Amended, to Provide Wholesale
Telecommunications Services to VoIP Providers
WC Docket No. 06-55**

Type OPASTCO, NECA, ITTA, NTCA Comments

Date April 10, 2006

Subject(s) Time Warner Cable's (TWC) petitions asking the FCC to (1) preempt a decision by the South Carolina Public Service Commission that denied TWC a certificate of public convenience and necessity for certain areas of South Carolina served by rural telephone companies and (2) a petition asking the FCC to declare that competitive local exchange carriers (CLECs) are entitled to interconnect with ILECs for the purpose of exchanging traffic on behalf of Voice over Internet Protocol (VoIP) providers, in circumstances where it does not appear that such providers would be entitled to connect directly

OPASTCO The Commission should deny, or at a minimum defer action on,
NECA TWC's petitions. The Commission should first clarify that entities
ITTA such as TWC, who provide interconnected local and long-distance
NTCA interexchange services to the public for a fee, are either
telecommunications carriers or are subject under Title I to the same
intercarrier compensation, universal service contribution, disability
rights, and number portability obligations as the traditional local
and long-distance carriers. Entities that seek the benefits of
carrier-type interconnection, including the right to obtain
numbering resources and number portability, should be subject to
the same obligations as the traditional carriers with whom they
compete. The Commission should also clarify that the jurisdiction
of calls by IP-Enabled service providers are determined on the
same basis as calls carried by traditional providers (i.e., on an end-
to-end basis).

**Petition of Hopi Telecommunications, Inc. for Designation as an Eligible
Telecommunications Carrier in the Hopi and Navajo Reservations
in the State of Arizona
CC Docket No. 96-45**

Type OPASTCO Comments

Date April 6, 2006

Subject(s) Hopi Telecommunications, Inc. (HTI) petition for designation as an eligible telecommunications carrier (ETC)

OPASTCO HTI convincingly demonstrates that it will satisfy all of the requirements for designation as an ETC. HTI explains how it plans to use the high-cost support it receives to upgrade the local exchange assets it is acquiring from CenturyTel of the Southwest, which it will be replacing as the ILEC for the majority of the Hopi Reservation. These network upgrades will significantly improve service quality to customers throughout its service area. Absent universal service support, HTI will not be able to provide service at affordable and reasonably comparable rates. Therefore, granting ETC status to HTI is in the public interest.

**Implementing Section 621(a)(1) of the Cable Communications Policy Act of 1984 as
amended by the Cable Television Consumer Protection and Competition Act of
1992
MB Docket No. 05-311**

Type OPASTCO Reply Comments

Date March 28, 2006

Subject(s) NPRM seeking comment on guidelines for local franchising authorities (LFAs)

OPASTCO Most OPASTCO members engaged in the provision of video services have good working relationships with their LFAs. However, some rural ILECs that serve as video providers in multiple jurisdictions, or in areas where they face competition from large cable companies, have experienced major roadblocks to obtaining franchises from local authorities. Resistance from incumbent video service providers and high fees from localities were prevalent in these cases.

In order to reduce barriers to rural ILEC entry into the video marketplace, OPASTCO recommends that the FCC adopt the following guidelines for

LFAs: (1) not impose build-out requirements on new entrants seeking franchises in competitive local franchise areas; (2) rule on franchise applications within 90 days; (3) grant competitive providers an exemption from a public rights of way review if the provider already has permission to access public rights of way; (4) refrain from imposing on new entrants any requirement not reasonably related to the provision of video service; (5) limit the total amount of a new entrant's franchise application fee to not more than \$100; and (6) refrain from requiring a telecommunications provider to serve the entire franchise area, if the telecommunications carrier's service territory does not completely encompass the local franchise authority's service area. Adoption of these guidelines would enhance regulatory certainty, spur the further deployment of broadband and provide rural consumers with more choices.

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

**High-Cost Universal Service Support
WC Docket No. 05-337**

Type OPASTCO Comments

Date March 27, 2006

Subject(s) NPRM seeking comment on (1) how to define the statutory term "sufficient" as it relates to the high-cost universal service support mechanism for non-rural carriers; and (2) a new interim support mechanism for non-rural insular areas based on embedded costs

OPASTCO The Commission should make clear that the definition of the statutory term "sufficient" adopted in this proceeding applies *exclusively* to non-rural carriers. What may be "sufficient" high-cost support for non-rural carriers to achieve the statutory objectives of affordable and reasonably comparable services and rates in their rural areas will almost surely be insufficient for rural ILECs to accomplish these same objectives. Rural ILECs and non-rural carriers have substantial market and operational differences that the Commission recognized when it created separate support mechanisms, and these differences also demand separate definitions of what constitutes "sufficient" support.

In addition, should the Commission decide to adopt a new interim support mechanism for non-rural insular areas, that mechanism, and any indexed cap that may be imposed on it, should be entirely separate from the existing rural high-cost support mechanism and its indexed cap. This would avoid the possibility of the new mechanism negatively affecting the

amount of support received by rural ILECs, to the detriment of their subscribers.

Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006

**Comment Sought on Reserve Prices or Minimum Opening Bids and Other Procedures
AU Docket No. 06-30**

Type OPASTCO Reply Comments

Date February 28, 2006

Subject(s) Public Notice seeking comment on the bidding procedures for the June 29, 2006 auction of Advanced Wireless Services (AWS) licenses in the 1710-1755 MHz and 2110-2155 MHz bands

OPASTCO The Wireless Telecommunications Bureau (Bureau) should maintain its long-standing policy of transparent bidding in the AWS-1 auction and reject the use of blind bidding. Blind bidding would limit the ability of small, rural carriers to make informed bidding decisions based on the technology utilized by neighboring carriers, and thus would hinder their participation in the AWS-1 auction. Additionally, OPASTCO is opposed to the bureau's proposed upfront payment formula, as it would discourage small, rural carriers, who possess limited capital resources, from participating in the auction. Instead, the bureau should adopt the Rural Telecommunications Group's (RTG) proposed lower upfront payment formula for Block A of the AWS-1 license auction. Finally, the Bureau should reject the use of package bidding, an untested and complicated procedure that could discriminate against small, rural carriers.

**Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures
WT Docket No. 05-211**

Type OPASTCO and RTG Comments

Date February 24, 2006

Subject(s) NPRM seeking comment on the Commission's competitive spectrum bidding rules regarding benefits for Designated Entities (DE)

OPASTCO RTG and OPASTCO urge the Commission to prohibit the award of DE

RTG benefits, such as bidding credits, to an otherwise qualified DE that has a significant “material relationship” with a large, in-region incumbent wireless service provider. When DEs have such a relationship with a large incumbent carrier, small, rural carriers without such relationships are denied any meaningful opportunity to deploy new, spectrum-based services. The Commission should prevent large carriers from taking advantage of DE benefits that were clearly not meant for the top five wireless carriers.

The Commission should ensure that its definition of “material relationship” does not inadvertently deny DE status to genuine DEs such as small businesses and rural telephone companies. Rural carriers that resell the services of large carriers or that have roaming or switching agreements with large carriers should not lose their DE status. RTG and OPASTCO are also opposed to a rule that would prohibit individuals with a net worth of \$3 million from having a controlling interest in DEs.

**National Exchange Carrier Association, Inc.
Proposed 2006 Modification of Average Schedule Formulas
WC Docket No. 05-347**

Type	OPASTCO Comments
Date	February 3, 2006
Subject(s)	NECA’s proposed modifications to the 2006 interstate average schedule formulas
OPASTCO	OPASTCO recommends that the Pricing Policy Division promptly approve the formulas as proposed. Pursuant to section 69.606(a) of the Commission’s rules, NECA’s proposed interstate average schedule formulas would simulate the disbursements that would be received by a representative cost company.

Overall, NECA’s proposed formulas would produce a 1.7 percent decrease in settlements to average schedule companies, the result of structural changes to the Common Line and Special Access formulas. These modifications were necessary to better align costs with settlements for companies of all sizes. OPASTCO urges the Commission to allow for transitional support to cushion the burden on rural ILECs that may result from a decrease in revenues, thereby enabling them to remain on track with their plans for network upgrades, including the rollout of broadband availability to additional consumers.

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

Type OPASTCO and RTG Reply Comments

Date January 26, 2006

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
RTG** The Commission should mandate an automatic roaming rule to address the market failure in the wholesale roaming market. The record in this proceeding demonstrates that while the retail CMRS market is subject to healthy competition, the market for wholesale roaming has failed. Large, nationwide carriers deny roaming to rural carriers' customers when they roam outside their home territories and extract excessive roaming rates from smaller carriers. As a result, carriers should be required to provide in-bound automatic roaming to any requesting carrier with a technologically compatible interface under rates, terms and conditions that are just, reasonable and non-discriminatory.

**Frontier Telephone Petition for Declaratory Ruling Regarding the Application of
Access Charges to IP-Transported Calls
WC Docket No. 05-276**

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

Date January 24, 2006

Subject(s) Frontier Telephone petition seeking a declaratory ruling that it is owed originating access charges for certain long-distance calls placed by customers of USA DataNet Corporation

**OPASTCO
ITTA
NECA
NTCA
USTelecom
WTA** There is no dispute that USA DataNet Corp. uses Frontier's local exchange switching facilities for the provision of interstate services. The Commission should reject DataNet's argument that they are exempt from access charges because they are providing an information service rather than a telecommunications service. The Commission has already determined that the use of IP technology to transport calls does not transform an interexchange service into an information service. The Commission should also reject DataNet's argument that they do not owe

access charges because they obtain local access facilities from a CLEC. DataNet actively sought Frontier customers with full knowledge that these customers could only reach DataNet via Frontier's network.

Numerous ILECs across the country are experiencing difficulties collecting access charges from carriers similarly-situated to DataNet. The Commission should act promptly to send a clear message to carriers and service providers that utilize the public switched telephone network for ordinary long-distance calls that they must pay interstate access charges for that use.

**USTelecom Association Petition for Reconsideration and Clarification re: CALEA and Broadband Access and Services Proceeding
ET Docket No. 04-295**

Type OPASTCO and NTCA Comments

Date January 19, 2006

Subject(s) USTelecom Petition for Reconsideration asking the Commission to stay the commencement of the 18-month Communications Assistance for Law Enforcement Act (CALEA) compliance deadline for facilities-based broadband Internet access providers

**OPASTCO
NTCA** The CALEA compliance deadline should be extended until at least 18 months after the effective date of the Commission's forthcoming order on CALEA capability requirements for broadband and VoIP providers and its decision on whether small and rural facilities-based broadband Internet access providers should be made exempt. As it currently stands, rural ILEC broadband Internet access providers do not know if they will be subject to CALEA, and if they are, they lack meaningful direction on how to comply. This forces rural ILECs to expend scarce capital resources on compliance, without specific guidance as to the scope of their CALEA obligations. These funds would be wasted if the Commission later determines that rural ILEC broadband providers should be exempt. Therefore, the Commission should stay commencement of the CALEA compliance deadline until the effective date of the forthcoming orders.

**Consumer Protection in the Broadband Era
WC Docket No. 05-271**

Type OPASTCO Comments

Date January 17, 2006

Subject(s) NPRM seeking comment on the need for regulatory requirements necessary to ensure that consumer protection requirements are met by all providers of broadband Internet access service

OPASTCO Formal consumer protection requirements are inappropriate and unnecessary for rural ILEC providers of broadband Internet access services. Specifically, the Commission should not apply to rural ILECs' broadband Internet access services formal regulations for CPNI, truth-in-billing, network outage reporting, and discontinuance notification. The widespread competition that currently exists in the rural broadband market serves as an incentive for rural ILEC providers of broadband Internet access to meet the consumer protection goals of the Telecommunications Act of 1996. By allowing the market for broadband Internet access services to grow unfettered by unnecessary, burdensome regulation, the Commission would advance the goal of making advanced services available to all Americans, including those living in rural areas.

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

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

Date January 11, 2006

Subject(s) Grande Communications petition requesting a ruling that when an access customer certifies to a 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 Commission should reject Grande's petition to establish a procedure under which LECs would be required to treat traffic delivered by interconnected CLECs as "enhanced," based solely on a certification by the CLEC's customer that the traffic is VoIP-originated. Grande
ITTA
NECA
NTCA
USTelecom
WTA improperly seeks to pre-judge the outcome of other proceedings considering the regulatory treatment of this traffic. The record in this proceeding supports the premise that VoIP-originated traffic that terminates on the PSTN should be assessed terminating access charges in the same manner as any other type of interexchange traffic. Grande's services use LECs' networks in the same manner as any other interexchange carrier's (IXC) services to terminate long-distance calls. Even if the Commission were to agree that terminating VoIP traffic is entitled to exemption from access charges as "enhanced," the scheme

proposed by Grande runs counter to established Commission and industry billing practices and will only invite fraud and abuse.

**Frontier Telephone Petition for Declaratory Ruling Regarding the Application of
Access Charges to IP-Transported Calls
WC Docket No. 05-276**

Type	OPASTCO, ITTA, NECA, NTCA, USTelecom, and WTA Comments
Date	January 9, 2006
Subject(s)	Frontier Telephone petition seeking a declaratory ruling that it is owed originating access charges for certain long-distance calls placed by customers of USA DataNet Corporation
OPASTCO ITTA NECA NTCA USTelecom WTA	The Commission should reject the assertion of USA DataNet Corp. that its calls should be exempt from access charges because they are transported, in part, using IP technology. The Commission already determined in the AT&T “IP-in-the Middle” Order that this does not exempt ordinary interexchange traffic utilizing the PSTN from access charges. DataNet’s reliance on an intermediate carrier to obtain access services does not in any way relieve DataNet of its obligation to compensate Frontier for its portion of local exchange access service. Prompt action by the Commission is needed to put a stop to further attempts at regulatory arbitrage and additional waste of Commission time and resources by parties claiming regulatory uncertainty where no such uncertainty in fact exists.

EX-PARTE MEETINGS

- Date** December 14, 2006
- Subject(s)** Representatives of OPASTCO met with staff from the Wireline Competition Bureau to discuss OPASTCO's views on reform of the system for determining high-cost universal service support in rural areas. In particular, OPASTCO stated that reverse auctions should not be used to determine high-cost support in rural service areas; high-cost support for rural ILECs should continue to be based on their embedded network costs; and the identical support rule should be eliminated in rural service areas and support for CETCs should be based on their own costs.
- Attendance** John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)
Brian Ford (OPASTCO)
Jeremy Marcus (FCC)
Vickie Robinson (FCC)
Katie King (FCC)
Ted Bermeister (FCC)
Gary Seigel (FCC)
Amy Bender (FCC)
Belinda Nixon (FCC)
- Date** November 21, 2006
- Subject(s)** Representatives of OPASTCO met with Commissioner Deborah Tate and her staff to introduce her to OPASTCO and present OPASTCO's views on the system for determining universal service funding for rural service areas, the USF contribution methodology, and the Missoula Plan for Intercarrier Compensation reform. On determining universal service funding for rural service areas, OPASTCO stated that high-cost support for rural ILECs should continue to be based on embedded costs, the High-Cost program should continue to be bifurcated based on the 1996 Act's definition of "rural telephone company" and high-cost support for CETCs should not be based on the costs of the rural ILEC. OPASTCO also stated its support for broadening the base of contributors to the USF to include all broadband Internet access providers over all platforms. OPASTCO also expressed its support for the Missoula Plan for Intercarrier Compensation Reform, which if enacted as proposed, would be beneficial to customers of RoR ILECs.
- Attendance** Commissioner Deborah Tate (FCC)
Ian Dillner (FCC)

Chad Miles (Enhanced Telecommunications Corporation)
Roger Nishi (Waitsfield and Champlain Valley Telecom)
H. Keith Oliver (Home Telephone Company)
Robert Williams (American Broadband Communications)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)

Date September 15, 2006

Subject(s) Representatives of OPASTCO met with Commissioner Robert McDowell and his staff to introduce him to OPASTCO and present OPASTCO's views on the system for determining universal service funding for rural service areas, the USF contribution methodology, and the Missoula Plan for Intercarrier Compensation reform. On determining universal service funding for rural service areas, OPASTCO stated that high-cost support for rural ILECs should continue to be based on embedded costs, the High-Cost program should continue to be bifurcated based on the 1996 Act's definition of "rural telephone company" and high-cost support for CETCs should not be based on the costs of the rural ILEC. OPASTCO also stated its support for broadening the base of contributors to the USF to include all broadband Internet access providers over all platforms. OPASTCO also expressed its support for the Missoula Plan for Intercarrier Compensation Reform, which if enacted as proposed, would be beneficial to customers of RoR ILECs.

Attendance Chad Miles (Enhanced Telecommunications Corporation)
Roger Nishi (Waitsfield and Champlain Valley Telecom)
H. Keith Oliver (Home Telephone Company)
John Rose (OPASTCO)
Stuart Polikoff (OPASTCO)
Dana Brown Shaffer (FCC)

Date June 14, 2006

Subject(s) Representatives of OPASTCO met with Commission staff to discuss OPASTCO's concerns with the proposed merger between AT&T and Bellsouth and the need for certain conditions to be imposed on the merger if it is approved. Conditions on the merger are necessary to constrain the increased market power that AT&T will have in the provision of wholesale network services which, if left unchecked, would harm rural consumers.

Should the Commission decide to approve the AT&T/BellSouth merger, OPASTCO urges that the following conditions be imposed for a minimum of five years following the close of the merger:

1) The rates and terms for wholesale access to AT&T's network must be provided on a "most favored nation" basis – i.e., the same rates and terms that AT&T provides to its own affiliates and to its largest customers. The following are the facilities/services that rural ILECs need access to on a most favored nation basis:

- A. Long distance / toll facilities
- B. Internet backbone access (special access, DS1s, DS3s, and bandwidth)
- C. Transiting (tandem switching and transport)

2) AT&T must publicly disclose the rates and terms of the wholesale interconnection contracts that it enters into with other carriers. At the very least, AT&T should be required to file such contracts with the FCC.

3) AT&T must not increase the rates paid by existing AT&T and BellSouth customers for wholesale DS1 and DS3 local private line services.

4) AT&T must not increase the rates set forth in AT&T's and BellSouth's interstate tariffs for special access services, including contract tariffs, that either company provides in its in-region territory.

5) AT&T's rates for transiting must either be capped (with annual increases permitted based on inflation) or, in the alternative, AT&T must demonstrate to the Commission that its transiting rates are cost-based.

6) AT&T must maintain settlement-free peering arrangements with at least as many providers of Internet backbone services as it did prior to the merger.

7) Prior to the completion of the minimum five-year period for which the above conditions are in effect, the FCC should conduct an analysis for each of the relevant wholesale services to determine whether or not they are sufficiently competitive. Only to the extent that the FCC determines that a specific service is sufficiently competitive should AT&T be relieved of some or all of the conditions for that particular network access service.

Attendance Chad Miles (Enhanced Telecommunications Corporation)
Roger Nishi (Waitsfield & Champlain Valley Telecom)
H. Keith Oliver (Home Telephone Company)
Stuart Polikoff (OPASTCO)

Jim Bird (FCC)
Joel Rabinovitz (FCC)
Ann Bushmiller (FCC)
Nick Alexander (FCC)
Bill Dever (FCC)
Paul Zimmerman (FCC)
Steve Rodini (FCC)
Treffaney Lowe (FCC)
Jon Reel (FCC)
Adam Kirschenbaum (FCC)
Tim Stelzig (FCC)
Marilyn Simon (FCC)
Natalie Roisman (FCC)

Date March 24, 2006

Subject(s) Representatives of OPASTCO and ITTA met with Scott Bergmann of Commissioner Adelstein’s office to discuss the need to extend the current separations freeze, scheduled to expire in June 2006. The associations requested that the Commission act without delay to extend the freeze on an interim basis pending resolution of ongoing intercarrier compensation and universal service proceedings. Extension of the freeze on an interim basis will preserve the status quo and give the Commission time to consider carefully how changes in the regulatory requirements actually affect part 36 separations rules.

The Associations also discussed a consequence of the separations freeze order, which created a “one-way ratchet” effect on the amount of LSS a carrier receives. Specifically, because the separations freeze order failed to address the effects on carriers that lose access lines and cross a DEM weighting threshold, these carriers are unable to raise their DEM weighting factor and receive increased LSS. The Associations urged the Commission to declare that a change in DEM weighting applies to both increases and decreases in access lines.

Attendance Scott Bergmann (FCC)
Brian Ford (OPASTCO)
Jay Driscoll (ITTA)

Date March 21, 2006

Subject(s) Representatives of OPASTCO, NECA, WTA and ITTA met with Jessica Rosenworcel of Commissioner Copps’ office to discuss the need to extend the current separations freeze, scheduled to expire in June 2006. The

associations requested that the Commission act without delay to extend the freeze on an interim basis pending resolution of ongoing intercarrier compensation and universal service proceedings. Extension of the freeze on an interim basis will preserve the status quo and give the Commission time to consider carefully how changes in the regulatory requirements actually affect part 36 separations rules.

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Attendance Jessica Rosenworcel (FCC)
Stuart Polikoff (OPASTCO)
Joe Douglas (NECA)
Colin Sandy (NECA)
Derrick Owens (WTA)
Jay Driscoll (ITTA)

Date March 21, 2006

Subject(s) Representatives of OPASTCO and ITTA met with Ian Dillner of Chairman Martin’s office to discuss the need to extend the current separations freeze, scheduled to expire in June 2006. The associations requested that the Commission act without delay to extend the freeze on an interim basis pending resolution of ongoing intercarrier compensation and universal service proceedings. Extension of the freeze on an interim basis will preserve the status quo and give the Commission time to consider carefully how changes in the regulatory requirements actually affect Part 36 separations rules.

The Associations also discussed a consequence of the separations freeze order, which created a “one-way ratchet” effect on the amount of local switching support (LSS) a carrier receives. Specifically, because the separations freeze order failed to address the effects on carriers that lose access lines and cross a DEM weighting threshold, these carriers are unable to raise their DEM weighting factor and receive increased LSS. The Associations urged the Commission to declare that a change in DEM weighting applies to both increases and decreases in access lines.

Attendance Ian Dillner(FCC)

Stuart Polikoff (OPASTCO)
Joe Douglas (NECA)
Colin Sandy (NECA)
Derrick Owens (WTA)
Jay Driscoll (ITTA)

Date March 16, 2006

Subject(s) Representatives of OPASTCO met with representatives from the Wireline Competition Bureau and the Wireless Telecommunications Bureau to discuss the problem rural ILECs face regarding “phantom traffic” and the need for the FCC to address the issue in the near-term. We stated that transiting carriers should not be permitted to manipulate the calling party number and called party in the initial address message and should be required to transport that information intact to the terminating end office. If the call signaling information necessary to bill for a call is incomplete, and a terminating rural ILEC requests a complete set of records from the connecting transiting carrier, the transiting carrier should be required to locate those records and provide them to the rural ILEC in a timely manner. If the transiting carrier is unwilling to obtain the necessary information and transmit it to the terminating rural ILEC, the rural ILEC should be permitted to bill the connecting transiting carrier for the call. Calls terminated by rural ILECs often have multiple transiting carriers between the points of origination and termination. It would be costly and burdensome for rural ILECs to be required to work their way back through the multiple transiting carriers in order to determine the originating carrier to be billed for a call.

Finally, it would be duplicative and unnecessary for a rural ILEC to be required to become local number portability capable for the sole purpose of populating the jurisdictional information parameter (JIP) when the originating customer is physically located in the same geographic area served by the rural ILEC’s switch. This is always the case for rural wireline carriers serving areas where number porting is non-existent.

Attendance Donald Stockdale (FCC)
Steven Morris (FCC)
Randy Clarke (FCC)
Steven Morris (FCC)
Jay Atkinson (FCC)
Peter Trachtenberg (FCC)
Joseph Levin (FCC)
Chad Miles (Enhanced Telecommunications Corporation)
John Rose (OPASTCO)

Stuart Polikoff (OPASTCO)
John McHugh (OPASTCO)

Date February 27, 2006

Subject(s) Representatives of OPASTCO, NECA, and NTCA met with Dana Brown Shaffer of Commissioner Tate's office to discuss the need to extend the current separations freeze, scheduled to expire in June, 2006. The associations requested that the Commission act without delay to extend the freeze on an interim basis pending resolution of ongoing intercarrier compensation and universal service proceedings. Extension of the freeze on an interim basis will preserve the status quo and give the Commission time to consider carefully how changes in the regulatory requirements actually affect part 36 separations rules.

Attendance Dana Brown Shaffer (FCC)
Stuart Polikoff (OPASTCO)
Joe Douglas (NECA)
Colin Sandy (NECA)
Daniel Mitchell (NTCA)

Date February 8, 2006

Subject Representatives of OmniTel Communications and OPASTCO met with Commissioner Jonathan Adelstein and Scott Bergman, the Commissioner's legal advisor for wireline issues. The meeting focused on the important role that centralized equal access (CEA) providers play in Iowa and neighboring states in deploying basic and advanced services to rural consumers. To ensure the continuation of CEA networks, all entities connecting with rural telephone companies should be required to pay their share of the cost of the CEA network. Cost-based intercarrier compensation for rural telephone companies and CEAs should be maintained and mandatory bill and keep should be rejected as a replacement for access charges.

Attendance Commissioner Jonathan Adlestein (FCC)
Scott Bergman (FCC)
Ronald Laudner (OmniTel Communications)
Stuart Polikoff (OPASTCO)

OTHER FILINGS

- Type** Letter to the FCC
- Date** November 29, 2006
- Subject(s)** OPASTCO filed a written *ex parte* letter to nominate John Jones of CenturyTel to the board of the Universal Service Administrative Company (USAC). Mr. Jones is the Vice President of Regulatory and Government Relations for CenturyTel, and has been involved in federal advocacy and regulatory issues since 1994.
- Type** Written Ex Parte Presentation to the FCC
- Date** August 8, 2006
- Subject(s)** On July 12, 2006, OPASTCO, NTCA, WTA, ITTA, and NECA filed a written *ex parte* presentation concerning a meeting that General Communications, Inc. (GCI) had with Thomas Navin, Chief of the Wireline Competition Bureau, and members of his staff. The topic of the meeting was GCI's 2005 *Request for Clarification* concerning implementation of former section 54.307(a)(4) of the Commission's rules. At one time, that provision required USAC to reduce universal service support paid to ILECs when ILEC lines were "captured" by competitive carriers. Contrary to GCI's claim, the deletion of former section 54.307(a)(4) from the Commission's rules was not a "clerical error" and was made in full conformance with the Administrative Procedure Act. Therefore, there is no need for the Commission to take action with respect to GCI's *Request for Clarification*, except perhaps to dismiss it as an untimely petition for reconsideration of an earlier Commission decision. The Commission certainly should not instruct USAC to implement a rule that is no longer effective, nor is there any need for the Commission to repeal a rule provision that was in fact repealed more than six years ago.
- Type** Written Ex Parte Presentation to the FCC
- Date** August 4, 2006
- Subject(s)** OPASTCO, ITTA, and WTA filed a written *ex parte* presentation urging the FCC to quickly require all broadband Internet access providers over all platforms to contribute to the USF. This is essential to the short-term stability of the USF, ensuring the Fund's long-term sustainability, and

establishing competitive neutrality among competing providers of broadband Internet access services.

Beginning August 14, 2006, facilities-based wireline broadband Internet access service providers that choose to provide broadband transmission on a non-common carrier basis will no longer be required to contribute to the USF based on the revenues derived from that transmission service. If the additional contributions from wireless and VoIP providers do not offset the loss from wireline broadband providers, then the Commission will need to increase the contribution factor. This can be avoided by requiring all broadband Internet access providers to contribute to the Fund.

From the perspective of the long-term sustainability of the USF, as the marketplace continues to evolve toward services that rely on broadband platforms, the shift away from “traditional” telecommunications services will drain the contribution base, threatening its viability. By extending universal service assessments to all broadband Internet access providers, it would help to ensure that consumers in rural and high-cost areas continue to have affordable access to advanced services that are comparable to those offered in urban areas.

In addition, ILECs that operate under rate-of-return regulation were not given the option of providing broadband transmission on a regulated non-common carrier basis in the Wireline Broadband Order. This will create a significant competitive inequity for those small and mid-size rate-of-return carriers facing direct competition from neighboring large price cap ILECs that offer similar broadband transmission services on a private carriage basis.

Type	Written Ex Parte Presentation to the FCC
Date	July 27, 2006
Subject(s)	OPASTCO, the RTG, and the Blooston Rural Carriers filed a written <i>ex parte</i> presentation in support of a Council Tree Communications motion to extend the deadline for filing comments on the Second FNPRM in the DE docket. Extending the comment deadline by 30 days will ensure that the Commission receives participation from rural wireless carriers and that the Commission can benefit from the experiences of carriers that participated in the AWS-1 auction. Many rural wireless carriers have expended their limited resources to participate in the auction, and extending the deadline would provide them with additional time to focus their resources on the important issues raised in the FNPRM.

Type Written Ex Parte Presentation to the FCC

Date July 27, 2006

Subject(s) OPASTCO filed a written *ex parte* presentation in support of a Joint Petition for Inquiry filed by AIRPEAK Communications and several others asking the Commission to request copies of CMRS carriers' roaming agreements in order to assess the state of the roaming market throughout the country. Large wireless carriers have been abusing their market power, forcing small, rural wireless carriers into roaming agreements where rural carriers' customers must pay an unreasonable premium to roam on a nationwide network. At the same time, nationwide carriers often pay less than rural carriers' costs for their customers to roam on the rural network. By collecting and reviewing a representative cross-section of CMRS roaming agreements, the Commission will have the data it needs to determine that an automatic roaming rule is necessary for small, rural wireless carriers to negotiate fair and reasonable roaming agreements with large, nationwide carriers.

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

Date March 23, 2006

Subject(s) OPASTCO submitted this statement in order to seek the Subcommittee's support for FY 2007 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:	\$250 million
Guaranteed loans:	\$300 million

In addition, OPASTCO requested that the distance learning, telemedicine, and broadband programs be funded at sufficient levels.

The \$300 million requested for guaranteed loans includes \$175 million in funding that was previously available through the Rural Telephone Bank (RTB). The dissolution of the RTB necessitates additional funds for RUS telecommunications loans in order to maintain the level of funds available to rural telecommunications borrowers.

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

Date March 23, 2006

Subject(s) OPASTCO submitted this statement in order to seek the Subcommittee's
support for FY 2007 loan levels for the telecommunications loans program
administered by the RUS in the following amounts:

5% hardship loans:	\$145 million
Treasury Rate loans:	\$250 million
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In addition, OPASTCO requested that the distance learning, telemedicine,
and broadband programs be funded at sufficient levels.

The \$300 million requested for guaranteed loans includes \$175 million in
funding that was previously available through the RTB. The dissolution
of the RTB necessitates additional funds for RUS telecommunications
loans in order to maintain the level of funds available to rural
telecommunications borrowers.

Type Written *Ex Parte* letter to the FCC

Date March 2, 2006

Subject(s) OPASTCO, NECA, NTCA, ITTA, WTA, ERTA submitted an *ex parte*
presentation supporting an extension of the separations freeze. The
extension is necessary to avoid imposing substantial administrative
burdens on ILECs and to allow the Commission time to complete ongoing
intercarrier compensation and universal service proceedings. Since the
freeze was imposed, ILECs have largely discontinued performing the
traffic studies needed to develop jurisdictional cost allocations factors, and
many of the personnel familiar with these functions have moved into other
positions or have retired. Should the freeze be lifted, small rate-of-return
carriers would have to expend significant resources to perform traffic
studies. If the Commission in the context of other proceedings determines
that the studies are no longer needed, this effort and expense would have
been wasted.

Type Written *Ex Parte* Letter to the FCC

Date February 24, 2006

Subject(s) OPASTCO, ITTA, NTCA, and WTA sent a letter to the Commission in support of a CenturyTel *ex parte* letter recommending that the Commission modify the Rural Growth Factor used to calculate the size of the rural high-cost loop (HCL) fund such that line growth can never be less than zero. The Rural Growth Factor was designed at a time when rural access lines were increasing each year. Rural access lines are now decreasing while costs to maintain rural networks remain constant. This caused a \$21.8 million reduction in the HCL fund for 2005 and will cause an additional \$57.9 million reduction in 2006. Also, most of the reductions in lines occurred in seventeen of the largest study areas, and thus small companies that may not be experiencing line count reductions are experiencing unexpected reductions in support. By modifying the Rural Growth Factor, the Commission will help ensure that support for rural high-cost study areas is sufficient and predictable as required under section 254 of the Telecommunications Act of 1996.