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

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Coalition for Equity in Switching Support	)	
Petition for Clarification	)	

COMMENTS OF JOHN STAURULAKIS, INC.

John Staurulakis, Inc. ("JSI") hereby files these comments in support of the tentative conclusion made by the Federal Communications Commission ("FCC" or "Commission") to modify its Local Switching Support ("LSS") rules to allow incumbent local exchange carriers ("LECs") that are designated as Eligible Telecommunications Carriers ("ETCs") that lose access lines to increase their LSS.[1] Specifically, in its NPRM, the Commission tentatively concluded to amend its rules to "allow an incumbent LEC ETC's Dial Equipment Minutes of use ("DEM") weighting factor and LSS to increase if a carrier's access lines decrease below the thresholds set forth in the Commission's rules."[2]

JSI is a consulting firm offering regulatory, financial and business development services to more than two hundred rate-of-return rural incumbent local exchange carriers ("LECs") throughout the United States. JSI assists hundreds of LECs in the preparation and submission of jurisdictional cost studies and Universal Service Fund data to the National Exchange Carrier Association ("NECA").

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[1] *High-Cost Universal Service Support; Coalition for Equity in Switching Support Petition for Clarification*; WC Docket No. 05-337, Order and Further Notice of Proposed Rulemaking, FCC 09-89 (rel. Oct. 9, 2009) ("NPRM").

[2] *Id.* at para. 15.

I. Modification of Rules is Appropriate

The Commission seeks comments on its tentative conclusion that its local switching support (LSS) rules should be modified to permit incumbent local exchange carriers (ILECs) that lose lines to increase their LSS according to its rules. JSI wholly endorses this proposed change to the LSS rules. Currently, rules 47 CFR § 36.125(j) and § 54.301 (a)(2)(ii) provide for changes in the calculation of LSS only when a study area's access lines increase. The Commission's regulations, however, make no provision to change the calculation of LSS when a study area's access lines decrease.[3]

JSI avers that the Commission's tentative change to its rules is appropriate. JSI is no stranger to this rule and has repeatedly brought up the inequity of the current rule to the attention of the Commission.[4] The LSS rule provides switching support for smaller ILECs by allowing an increase in the allocation of switching costs to the interstate jurisdiction. The foundation for this policy is the recognition that smaller ILECs generally serve fewer customers per switching location and do not benefit from scale economies when providing telecommunications services. These fundamental facts have not changed. Prior to the application of the current rules and freeze, the DEM weighting applied to a study area would be assessed annually and would change according to the number of access lines served. The current rule prevents an ILEC from retaining a higher DEM weighting factor as access lines crossed one of the DEM weighting thresholds - under normal circumstances (i.e., without a freeze) this would have triggered a change in an ILEC's DEM weight.

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[3] The number of access lines in a study area is used to determine the allocation of switching costs to the interstate jurisdiction. ILECs serving 50,000 access lines or fewer are directed to allocate more of these costs to the interstate jurisdiction using a DEM weighting factor. *See* 47 CFR §36.125(f) for a description of these weighting factors and their access line thresholds.

[4] *See, e.g.,* JSI *ex parte* Presentation in CC Docket No. 80-286 dated March 30, 2006.

The current rule is inequitable. For example, an ILEC who increased access lines in the past by providing second lines to its customers to accommodate dial-up access to the Internet could have crossed a DEM weighting threshold and realized a decrease in its DEM weight. When, years later, these customers now access the Internet via a broadband connection, their second lines are dropped and the access line count reverts back a level below a threshold. In this example, the ILEC had to reduce its DEM weight as access lines increased but is prevented from reverting to its prior DEM weight when access lines decline. The inequity is apparent when comparing two ILECs serving approximately the same number of access lines. The evidence presented in this docket shows that some ILECs serving approximately the same number of access lines can have two different DEM weighting factors. This result is an outcome of the current rule. JSI applauds the proposed rule change to permit the DEM weighting factor to change as an ILEC's access lines increase or decrease.

II. Additional Support will Foster Provision of Advanced Services

The proposed rule will provide additional support for small ILECs in the provision of telecommunications services. These services include wireline broadband Internet access. This Commission has long recognized that federal universal service support includes the "use of support to invest in infrastructure capable of providing access to advanced services."[5] Consequently, the proposed rule will permit affected ILECs to advance their provision of broadband services. Such action is clearly in the public interest.

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[5] *Cellular South License, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area In the State of Alabama*, 17 FCC Rcd 24393, December 04, 2002. ("Although the Alabama Commission is correct that the provision of advanced services is not a supported service, the Commission explained in the RTF Order that "use of support to invest in infrastructure capable of providing access to advanced services does not violate section 254(e), which mandates that support be used 'only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.")

III. Supporting Data

The Commission seeks specific data quantifying the amount by which this proposed change will increase federal universal service high-cost disbursements. Data provided by NECA indicates the potential near term impact of this rule change is negligible. Additionally, the Coalition for Equity in Switching Support has filed an industry-wide estimate showing the impact of the rule change on selected ILECs. We refer to these and other individually filed ILEC examples that show the beneficent impact the rule change will have for ILECs and their customers.

IV. Conclusion

The current rule is inequitable in its administration and the potential incremental benefit the rule change may have on the deployment of advanced services supports the Commission's tentative conclusion. The overall increase in disbursements of LSS is small compared to federal high-cost disbursements. All of these reasons support the expedited change to the current LSS rule. We strongly encourage the Commission to take the necessary steps to codify its proposed rules in an expedited fashion.

Respectfully submitted,

November 24, 2009

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