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

In the Matter of	))	
Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers	))))	CC Docket No. 00-256
Federal-State Joint Board on Universal Service	))	CC Docket No. 96-45
Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation	))))	CC Docket No. 98-77
Prescribing the Authorized Rate of Return For Interstate Services of Local Exchange Carriers	)))	CC Docket No. 98-166

COMMENTS OF JOHN STAURULAKIS, INC.

John Staurulakis, Inc. ("JSI") hereby files these comments in response to the request by the Federal Communications Commission ("Commission") for comments on a Petition for Rulemaking submitted by the Multi-Association Group ("MAG")[1] The Petition includes a plan for access reform and universal service support reform for incumbent local exchange carriers ("ILECs") under interstate rate-of-return regulation.

JSI is a consulting firm specializing in regulatory and financial services to more than two hundred ILECs throughout the United States. Among its consulting services, JSI assists these ILECs in the preparation and submission of jurisdictional cost studies and Universal Service Fund ("USF") data to the National Exchange Carrier Association ("NECA"), and routinely prepares and files tariffs with the Commission on behalf of a number of these ILECs. JSI also provides consulting services for competitive local exchange carriers ("CLECs") that provide competitive local exchange services across the nation. Since the Commission seeks comments on the Petition that has the potential to alter current interstate access and universal service rules, JSI is an interested party in this proceeding.

I. JSI WELCOMES EFFORTS TO PROVIDE MEANINGFUL ACCESS REFORM

In previous rulemaking proceedings the Commission addressed interstate access reform for price-cap carriers[2]. However, access reform for carriers under rate-of-return regulation has yet to be completed. The Commission requested comments on access reform for rate-of-return ILECs, but a number of commenters, including JSI, suggested that price-cap access reforms were inappropriate for rate-of-return ILECs.[3] The principal reason why JSI suggested that price-cap access reform is inappropriate is because the cost characteristics of rural ILECs warrants further review and possibly an alternate policy for these carriers. JSI believes that applying price-cap access reform to rate-of-return ILECs would lead to dramatic increases in the costs to all end-user customers from increases in subscriber line charges ("SLCs") and the direct pass-through of the primary interexchange carrier charge ("PICC") by interexchange carriers ("IXCs"). We continue to affirm that large increases in end-user charges are not in the public interest.

We further affirm that, to the extent possible, the access rate structure should mirror the manner in which costs are incurred. However, we do not suggest that IXCs should be able to shed their shared-cost portion of the common line loop costs. It is undisputed that interexchange carriers use, as part of their retail service to end-user customers, the loop connection to the public switched network. JSI agrees that, to the extent possible, the IXCs' portion of this cost should be aligned to the manner in which these costs are incurred. This suggests that IXCs should pay for their share of non-traffic-sensitive costs on a non-traffic-sensitive basis. To the extent that the MAG plan accomplishes this cost recovery adjustment, JSI is supportive of its effort.

We commend MAG in its attempt to provide meaningful access reform, or the option of meaningful access reform for rate-of-return ILECs. We conclude that the option of Path A incentive-based regulation is a meaningful attempt at access reform for ILECs opting for

Path A. However, we remain concerned that the ILECs opting for Path B under the MAG plan will likely face significant increases in their composite access rates due to the expected election of Path A incentive regulation by low-cost carriers. JSI believes that this likely will lead to an increased disparity among ILECs, even among rural ILECs, providing interstate access. JSI believes that this increased disparity is not in the public interest. To avoid the increased disparity for Path B ILEC access rates, JSI recommends that the Commission adopt protections safeguarding reasonably comparable access rates for Path B ILECs. JSI submits that the higher Path B composite access rate should be reasonably comparable to the composite access rate for Path A ILECs in a manner similar to the comparability of Path A ILEC rates to the CALLS rate for price-cap ILECs serving rural areas.[4] JSI submits that the majority of costs not recovered by a Path B composite rate cap represent access costs rather than residual implicit support.[5] In light of this fact, JSI recommends that the Commission create an access recovery mechanism for Path B ILECs that would operate in a manner similar to the current Long Term Support ("LTS") program with the exception that this access recovery mechanism not be portable to competitive eligible telecommunications carriers ("CETCs"). JSI suggests that since this access recovery mechanism will recover traffic-sensitive costs as well as non-traffic-sensitive access costs above the comparable composite rate, it is not appropriate to categorize these costs as universal service costs.[6] Therefore JSI believes it is not appropriate to have these costs portable under existing universal service rules.

In its Notice, the Commission sought comments regarding the level of Path B access rates. JSI believes that this recommendation will ensure that Path B ILEC composite access rates will remain reasonably comparable to the composite access rates for Path A ILECs.

II. JSI SUPPORTS EFFORTS TO REMOVE UNIVERSAL SERVICE FUNDING CAPS

The MAG plan recommends removal of all federal universal service funding caps.[7] JSI notes that there is considerable overlap with the MAG plan and the recommendations of the Joint-Board on Universal Service ("RTF Proposal"). In the RTF Proposal, the universal service funding caps are re-based for the most recent year. However, the existence of a funding cap will lead to instances in which there is either a disincentive or no incentive to invest in costly infrastructure for rural areas. Therefore, JSI believes that any universal service funding cap will serve as a detriment to the public policy objectives to continue to provide first-rate telecommunications services using upgraded telecommunications plant infrastructure. JSI supports the MAG in its proposal to remove all federal universal service caps and recovery limitations.[8]

III. JSI SUPPORTS THE MAG PLAN CONCLUSION OF THE PRESCRIBED AUTHORIZED RATE OF RETURN FOR RATE-OF-RETURN ILECS.

The MAG plan recommends that the prescribed authorized rate of return remain at an annual 11.25 percent. JSI supports the MAG in this effort and requests that the Commission rule, using the voluminous record in the prescribed authorized rate-of-return docket, and to adopt the MAG recommendation.

IV. Conclusion

JSI supports the process of access reform for rate-of-return ILECs, the proposal to remove the federal universal service funding caps, and the solidifying of the prescribed authorized rate of return. To the extent that the MAG Petition can reach these objectives, JSI supports the Petition.

Respectfully submitted,

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Footnotes

1 *Notice of Proposed Rulemaking*, FCC 00-448 (rel. Jan 5, 2001). The MAG is comprised of the National Rural Telecom Association ("NRTA"), National Telephone Cooperative Association ("NTCA"), Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"), and the United States Telecom Association ("USTA").

2 *See Access Charge Reform*, *Price Cap Performance Review for Local Exchange Carriers*, CC Docket Nos. 96-262, 94-1, and 99-249.

3 In the Matter of *Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, CC Docket No. 98-77, Notice of Proposed Rulemaking, 13 FCC Rcd 14238 (1998).

4 JSI notes that the MAG plan does not specifically identify the costs of providing interstate access service for rate-of-return ILECs. However, JSI does not believe that this should be viewed as a deficiency of the MAG plan. Determining costs for over 1,000 ILECs was not a feasible task for MAG. The exhaustive review of the Rural Task Force ("RTF") of proxy cost models for rural ILECs determined that current proxy models are inappropriate for rural ILECs. (*See* RTF Recommendation to the Joint-Board on Universal Service.) Thus the option to use the CALLS plan method of using proxy cost models to determine costs also was not a viable option for MAG.

5 Moving LTS to the universal service program from the access rate structure eliminated a large portion of the implicit support then extant in access rates. Any remaining residual implicit support, after removal of LTS, is largely reflected in the use of an interstate SPF of 25 percent instead of a SLU determined rate based on interstate usage.

6 LTS provides cost recovery to common line costs above a predetermined level. Since these costs are exclusive to common line cost recovery, the Commission has determined that these costs fall under the ambit of "access to interexchange service," which is included in the Commission's definition of universal service. The costs referenced in these comments are not exclusively common line costs. Rather these costs include traffic-sensitive switching costs and transport costs. Therefore, cost recovery above a Path B composite cap should be viewed as access costs recovery and not as universal service cost support.

7 There are three caps or limitations on the High Cost Loop Fund ("HCLF"): a cap in annual HCLF growth; corporate operations expense limitation; and study-area expense limitations on acquired exchanges.

8 Some parties fear that the removal of the funding caps will lead to a ballooning universal service support fund. JSI disagrees with these predictions. The telecommunications industry has seen that the public is capable of providing adequate universal service support in the past. Since telecommunications carriers that have interstate revenues are contributors of the support funds, and these same carriers pass-through their costs to their end-user customers on an interstate revenue basis, the potential for price distortions is minimal for these carriers.
