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March 30, 2006

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

**Re: CC Docket No. 80-286
Notice of Written *Ex Parte* Presentation**

Dear Ms. Dortch:

In recent *ex parte* presentations before the Commission, a proposal made by John Staurulakis, Inc. (“JSI”) was discussed in the context of the proposed extension of the jurisdictional separations freeze (CC Docket No. 80-286).¹ This proposal addresses a mechanical issue related to the current freeze period. Under the current rule (47 CFR §36.125(j)), a study area whose access lines increase over a Dial Equipment Minutes (“DEM”) factor threshold move to a lower DEM weight for the remainder of the current freeze period. However, for study areas whose access lines decrease to a level below a DEM weight threshold, the current rule does not permit moving to a higher DEM weight for the remainder of the current freeze period. The DEM weight is used to calculate federal universal service Local Switching Support.

To address this imbalance, JSI urges the Commission to extend the jurisdictional separations freeze; recognize the DEM weight issue; and, order that a change in DEM weight apply to both increases and decreases in access lines during any extension of the freeze when access lines cross a DEM weight threshold. Attached please find a written *ex parte* presentation which further explains and clarifies JSI’s position.

¹ See, e.g., Letter from John Kuykendall, Director – Regulatory Affairs, JSI, to Marlene H. Dortch, Secretary, FCC, *ex parte* Presentation in CC Docket No. 96-45, WC Docket Nos. 06-54 & 06-55 and CC Docket No. 80-286, dated Mar. 20, 2006; Letter from Joe Douglas, Vice President Government Relations & Corporate Communications, the National Exchange Carrier Association, to Marlene H. Dortch, Secretary, FCC, *ex parte* Presentation in CC Docket Nos. 80-286 and 96-45, dated Mar. 22, 2006.

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Please contact the undersigned with any questions.

Respectfully submitted,

/s/ Douglas Meredith

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Attachments

cc: Deborah Taylor Tate, Commissioner, FCC, Federal Chair, Federal-State Joint Board on Jurisdictional Separations
Dana Shaffer, Office of Commissioner Tate
Kevin J. Martin, Chairman, FCC, Federal Commissioner, Federal-State Joint Board on Jurisdictional Separations
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Jessica Rosenworcel, Office of Commissioner Copps
Jonathan Adelstein, Commissioner, FCC
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Paul Kjellander, State Chair, Federal-State Joint Board on Jurisdictional Separations
Curt Stamp, State Commissioner, Federal-State Joint Board on Jurisdictional Separations
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John D. Burke, State Commissioner, Federal-State Joint Board on Jurisdictional Separations
Tom Navin, FCC, Wireline Competition Bureau Chief
Sam Feder, FCC, General Counsel
James Bradford Ramsey, General Counsel, National Association of Regulatory Utility Commissioners

DEM Weighting Factor

The need to permit two-way adjustment of the DEM weighting factor during the extension of a separations factor freeze

Jurisdictional Separations Freeze

- Continued freeze of Separations Factors is in the public interest.
- Concurrent with an extension of the freeze, the Commission should declare that the DEM weighting factor, used to calculate Local Switching Support (LSS) for federal universal service, change for increases and decreases in access lines during any extension of the freeze. This would allow for two-way adjustments that are currently only one-way.

Dial Equipment Minutes (DEM)

- Dial Equipment Minutes (DEM) is a measure of switch usage.
- DEM is used to allocate local switching equipment costs between state and interstate jurisdictions using relative values or percentages.
- Carrier study areas with fewer than 50,000 lines weight their DEM with a “weighting factor,” thereby providing LECs with a higher allocated cost basis for federal universal service Local Switching Support (LSS).

DEM

- DEM has two components:
 - The unweighted DEM factor; and,
 - for carrier study areas with fewer than 50,000 lines the DEM is weighted with a weighting factor.
- The unweighted DEM factor is frozen for cost separations purposes.
- Under the current freeze period, the DEM weighting factor currently adjusts one-way and is used to calculate LSS.

LSS and DEM Weighting Factors

Study Area Access Lines	Weighting Factor
$\leq 10,000$	3.0
10,001-20,000	2.5
20,001-50,000	2.0
$\geq 50,001$	1.0

The DEM Weighting Factor

- The DEM weighting factor is based on access lines. It is not based on complex traffic studies.
- The DEM weighting factor is used to calculate federal high-cost universal service support under the LSS program.
- The DEM weighting factor is currently affected by the separations factor freeze.
 - Rule 36.125(j) creates a one-way adjustment for DEM weighting factor changes during the current freeze. (FCC 01-162, Appendix C). This rule requires changes to the DEM weighting factor for increases in access lines but is silent on decreases in access lines.

47 CFR §36.125(j)

- If during the period from January 1, 1997, through June 30, 2006, the number of a study area's access lines increased or will increase such that, under §36.125(f) the weighting factor would be reduced, that lower weighting factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor. The study area will restate its Category 3, Local Switching Equipment factor under §36.125(f) and use that factor for the duration of the freeze period.

Current Problem

- In establishing the separations factor freeze, the FCC codified a rule to ensure the DEM weighting factor was adjusted as study area line counts increased. 47 CFR §36.125(j)
- Some small carriers have seen line counts decline during the freeze period due to increased use of broadband and intermodal competition.
 - These carriers would normally use a different DEM weighting factor because their line counts crossed a DEM weighting factor threshold.
 - Under the freeze rule, no adjustment is allowed for a decrease in line counts, while at the same time adjustments are required for an increase in line counts.

Policy Recommendation

- The current freeze rule requires changes to DEM weighting factors as access lines increase during the separations factor freeze.
- The FCC should recognize that in the current environment, study area access lines have declined over time for some carriers and may decline for other carriers during the freeze extension period.

JSI Request

- JSI requests that the FCC:
 - extend the separations factor freeze;
 - recognize the DEM weighting factor issue discussed above; and,
 - order that a change in DEM weighting factor apply to both increases and decreases in access lines during any extension of the freeze when the access lines cross a DEM weighting factor threshold.
- This action will permit eligible carriers to receive their size-determined federal universal service Local Switching Support and thereby further the advancement and preservation of universal service in the affected study areas.