

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Petition of the United States Telecom Association)
for Waiver From Application of the Equal Access) WC Docket No. 08-225
Scripting Requirement)

**COMMENTS of the
NATIONAL EXCHANGE CARRIER ASSOCIATION, INC. (NECA)
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL
TELECOMMUNICATIONS COMPANIES (OPASTCO)
EASTERN RURAL TELECOM ASSOCIATION (ERTA)
and the
WESTERN TELECOMMUNICATIONS ALLIANCE (WTA)**

The Associations listed above¹ hereby file these Comments on the Petition of the United States Telecom Association (US Telecom) for Waiver from Application of the Equal Access Scripting Requirement.^{2 3} The Associations strongly support USTelecom’s request, and urge the Commission to extend relief to all ILECs regardless of whether they are members of USTelecom.⁴

¹ NECA is a non-stock, non-profit association formed in 1983 pursuant to the Commission’s Part 69 access charge rules. *See generally* 47 C.F.R. § 69.600 *et seq.* OPASTCO is a national trade association representing approximately 520 small ILECs serving rural areas of the United States. ERTA is a trade association representing approximately 68 rural telephone companies operating in states east of the Mississippi River. WTA is a trade association that represents over 250 rural telecommunications companies operating in the 24 states west of the Mississippi River.

² Petition of the United States Telecom Association for Waiver From Application of the Equal Access Scripting Requirements, WC Docket No. 08-225, (Nov. 10, 2008) (*USTelecom Petition*).

³ “Wireline Competition Bureau Seeks Comment on Petition of United States Telecom Association for Waiver from Application of the Equal Access Scripting Requirement, Pleading Cycle Established,” Public Notice, WC Docket No. 08-255, DA 09-1816, at 1 (rel. Aug. 19, 2009) (Public Notice).

⁴ Public Notice, at 1.

As USTelecom explains, the Equal Access Scripting obligation “was created pursuant to the Modified Final Judgment (MFJ) applicable to Bell companies, expanded to remaining carriers ... and preserved under the 1996 Telecommunications Act, at section 251(g)[, 47 U.S.C. §251(g).]”⁵ While the Commission has lifted this requirement from AT&T, Verizon and Qwest,⁶ it has not extended comparable relief to small and mid-sized ILECs.⁷

The Associations agree that the telecommunications marketplace has changed dramatically since the Equal Access Scripting rule was first adopted. The MFJ and subsequent Commission equal access rules were designed in the 1980’s era “post-divestiture” environment to introduce long distance competition to consumers. At the time, competitive interexchange carriers such as MCI, Sprint, Allnet, and small resale carriers were often not well known. Many consumers were not even aware of their ability to select a preferred 1+ long distance carrier. At the time, a requirement for ILECs to inform new local exchange service customers of their options for long distance service providers made sense.⁸

But subsequent changes in technology and the marketplace, most especially the development of “all distance” wireless and wireline services, have resulted in drastically different conditions. Many consumers, including many who reside in rural areas, obtain long-

⁵ *USTelecom Petition* at 1-2.

⁶ *Id.* at 1, citing *Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules; and Petition of AT&T Inc. for Forbearance Under 47 USC §160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services*, Report & Order and Memorandum Opinion & Order, 22 FCC Rcd 16440 (2007) (*BOC Relief Order*).

⁷ *Id.* at ¶126.

⁸ The Commission previously recognized that the purpose of the scripting rule was to foster competition for stand-alone long distance services when such competition was nascent at best. *BOC Relief Order*, at ¶120.

distance service now from local carriers, wireless companies, pre-paid calling card providers, and increasingly, interconnected Voice over Internet Protocol (VoIP) providers, most of whom offer bundled local and long-distance calling plans.⁹

Further, as USTelecom points out, competing providers spend immense amounts of money advertising their services using both regional and national media.¹⁰ Indeed, it is difficult to imagine at this point that consumers in any area need to be told by their local telephone company that they have “choices” in long distance service providers. Yet small and mid-size carriers must still read a list of service providers to any customer seeking to order new telephone service.

Many of the Associations’ member ILECs are very small and have only a limited number of employees. Compliance with the scripting rule imposes real burdens, including training customer service staff, maintaining rotating lists of alternative long distance providers, and otherwise ensuring compliance with the rule. Since the scripting requirement provides little benefit to consumers, these compliance costs, while not overwhelming, clearly impose an unnecessary burden.

As USTelecom correctly notes, “no other providers of voice services—not wireless, not cable, not VoIP—are subject to this [rule and its] regulatory burden.”¹¹ Waiver of, or forbearance from, the rule would permit small and mid-sized ILECs to operate on the same plane

⁹ The FCC has categorized stand-alone long distance as a “fringe market.” *Id.* at ¶¶ 23, 121.

¹⁰ *USTelecom Petition* at 18.

¹¹ *Id.* at 2.

as all other service providers.¹² Parity will enable them to spend their customer service resources on tasks that better serve consumers, while avoiding the need to inform new customers of options they already understand.

Conclusion

For the reasons set forth above, the Commission should waive, or forbear from enforcing, the outdated Equal Access scripting requirement as requested by USTelecom, and extend such regulatory relief to all ILECs.

Respectfully submitted,

September 11, 2009

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¹² It bears noting some states still require carriers to read lists of providers offering intrastate long distance services to new subscribers. Elimination of the federal requirement does provide important guidance to states seeking to reduce unnecessary regulations of this type.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Associations' Comments was served this 11th day of September, 2009 by electronic filing and e-mail to the persons listed below.

By: /s/ Elizabeth R. Newson
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