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Arizona Local E[...] Carriers Association

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Rob Richards, Accipiter Communications, Treasurer

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Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Re: EAS Rulemaking Proceeding, Docket No. RT-00000J-02-0251

Dear Corporation Commissioners and Staff:

On behalf of the Arizona Local Exchange Carriers Association ("ALECA"), I submit comments in the above-referenced docket in response to the questions in Exhibit A of Commission Staff's June 7, 2002, industry memorandum. Those members of ALECA concurring in and supporting such comments are as follows: Accipiter Communications, Inc., CenturyTel, Inc., Citizens Communications (representing Frontier Citizens Utilities Rural, Frontier Communications of the White Mountains and Navajo Communications, Inc.), Fort Mojave Telephone Company, Gila River Telecommunications, Midvale Telephone Exchange, Inc., San Carlos Apache Telecommunications Utility, Inc., South Central Communications, TDS Telecom (representing Arizona Telephone and Southwestern Telephone), Tohono O'dham Utility Authority and Valley Telephone Cooperative (also representing Copper Valley Telephone, Inc.).

Please see the attached document for our complete comments. We look forward to working with the Commission and the Commission Staff to investigate fully and address the issues concerning EAS in the state of Arizona.

These comments are submitted by me at the direction of Judy Bruns, President of ALECA. Should you have any questions, please feel free to contact Judy at 520-384-2231 or myself at 801-924-6358.

Sincerely,

Curt Huttsell

Curt Huttsell, Ph.D.
Vice President and Secretary
ALECA

COMMENTS OF THE
ARIZONA LOCAL EXCHANGE CARRIERS ASSOCIATION
IN ARIZONA COPRORATION COMMISSION
DOCKET NO. RT-00000J-02-0251
EAS Rulemaking Proceeding

EXHIBIT A

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1. **In granting EAS, should a customer petition or other expression of public interest accompany a proposal? If so, how many customers or what percentage of customers in an area should be sufficient to prompt an EAS review?**

   Yes. ALECA believes that the Commission should not consider widening existing local calling areas unless the incumbent local exchange carrier or carriers involved seek to do so voluntarily. If the Commission chooses not to rely upon carrier initiatives, it should require a customer petition or similar expression of public interest before considering an EAS proposal. For example, a reasonable threshold standard for a valid customer petition might require that the petition be signed by 25 percent of the customers in the petitioning exchange, or 5,000 customers, whichever is less. Such a threshold provides verification that a genuine and significant level of interest for EAS exists among customers in the petitioning exchange, and insures that the petitions are representative of more than just a small minority of customers. Because implementation of a new mandatory EAS route affects all customers within the petitioning exchange, including low-volume customers who may not benefit from EAS conversion, there needs to be a standard that provides a proper balance between the need to ensure that petitions are representative of more than just a small minority interest in the community and the difficulty of petitioners in larger exchanges in meeting the signature requirement.

   ALECA recommends that the Commission draw up a standard petition form. The information included on the form should advise signatories that the final implementation of EAS might increase their local charge or result in an additional charge on their bill. Included in the form should be enough information, including telephone number, so that the local provider can easily verify that the signatory lives in the actual exchange.

2. **Should EAS from one local calling area to two or more other local calling areas be permitted? If yes, how should the potential for illegal EAS bridging for the purpose of toll bypass be addressed and evaluated?**

   No. ALECA opposes overlapping EAS areas. In the experience of ALECA's members, overlapping EAS areas invite arbitrage through EAS bridging.

Preventing EAS bridging can be costly and difficult for both the Commission and incumbent local exchange carriers ("ILECs") like ALECA's members.

EAS bridging occurs whenever a third party purchases and resells EAS. For example, it is common for an EAS Bridger to attempt to use a combination of local lines and call forwarding services to link overlapping EAS areas, thereby enabling its subscribers to avoid paying usage-sensitive toll charges. The EAS Bridger also avoids paying switched access charges to the affected local exchange carrier. In so doing, the EAS Bridger profits from the difference between the typically flat EAS rates for a given volume of traffic and usage-sensitive toll and exchange access charges. EAS bridging usually violates the provisions of both local exchange and exchange access tariffs making it illegal.

3. **Should there be minimum call volumes needed before prompting an EAS review? If so, what should the minimum call volumes be and how would these minimum call volumes be determined in the case where multiple service providers exist?**

   Yes. If the Commission chooses not to rely upon carrier-based initiatives, it should require minimum call volume or call distribution thresholds before considering an EAS proposal. No specific call volume or call distribution threshold conclusively establishes a public need for an EAS route. However, the higher the call volume, the more demonstrable it is that a sufficient number of toll calls is being made to the target exchanges, by a sufficient percentage of customers in the petitioning exchange, to support the conclusion that each of the proposed routes constitutes a community of interest. For example, a reasonable standard for calling volume is that customers in the petitioning exchange place an average of four toll calls per access line per month to the targeted exchange(s), and a reasonable standard for calling distribution is that more than 50 percent of the customers in the petitioning exchange make at least two calls per month to the target exchange(s).

4. **Are there EAS rules in other states which should be considered or adopted in Arizona? If so, please supply these rules and any related reports or other documents.**

   ALECA has no recommendation at this time.

5. How should the concept of "community of interest" be defined?

A "Community of Interest" exists where there is a strong social, economic or political connection between two telephone exchanges. The connection may arise from interdependence between two areas, or where residents of one area rely heavily on another area for services and facilities necessary to meet many of their basic needs.

As such, "Community of Interest" should include the following concepts:

1) Call Volume: the number of calls from petitioning exchange to the target exchange divided by the number of lines in the petitioning exchange, which yields the average number of calls per line;
2) Call Distribution: the number or percentage of customers making calls from the petitioning exchange to the target exchange;
3) Geographic proximity (distance between exchanges);
4) Presence of geographic or other physical barriers (mountains, rivers, valleys, etc.) between the petitioning and target exchanges;
5) County seat relationship;
6) Relationship to school district;
7) Proximity to medical facilities and services;
8) Willingness of customers to pay increased rates;
9) Number of lines in the petitioning exchange and the target exchange
10) Toll-free access to information providers (Internet, on-line data bases, distance learning resources), and
11) Number of foreign exchange, private line and 1-800 customers in each exchange.

6. What is the significance of call volumes to an EAS petition and review?

Please see ALECA's response to Question 3 above.

7. What are the potential costs of implementing EAS and what methods should companies use to recover the cost of EAS?

The costs of implementing EAS primarily include sacrificed toll and switched access revenues. Costs may also include network facilities or improvements specifically needed to provide EAS, including upgrading switching capacity. In addition, there may also be costs of customer notifications and other administrative functions associated with implementation.

Lost toll and access revenues are perhaps the largest single category of costs incurred by carriers implementing EAS routes. Toll and access rates in Arizona have traditionally made contributions toward covering common overhead costs and keeping basic local exchange rates low. Interexchange Carriers ("IXCs") are also at risk of losing revenue from conversion from toll calling to extended area calling. The foregone contribution from toll and access must be replaced by separate EAS charges if the carriers involved are to continue to attract capital and maintain credit worthiness.

Since EAS almost always stimulates calling between the affected exchanges, the ILEC's cost of providing service is likely to increase. As customers substitute EAS for interexchange calling, costs may rise as the ILEC adds interoffice trunks to carry the EAS traffic and separate it from the toll traffic. These additional costs should also be recovered through separate EAS charges.

EAS charges should be flat monthly rates that reflect the foregone contribution and added costs of establishing an EAS route. Thus, EAS rates must recover the costs of switching and transport and make a contribution to common overhead and the cost of the local loop. At the very least, new EAS routes should be revenue neutral to the ILECs involved.

8. **How should the Commission approach EAS in light of the current and future competition in long distance and other telephone services? For example, how will revenue impacts on companies be determined now that the ILEC may not be the only company impacted?**

Optional Local Calling Plans ("LCPs") are a superior alternative to EAS. Optional LCPs allow carriers the flexibility to develop plans that best suit the calling habits of their customers and their customers' budgets, thereby giving subscribers greater choice. They eliminate the inherent inequality of an EAS rate additive, especially when there are customers who will not benefit from EAS but will subsidize those high-toll customers who do. Optional LCPs are more equitable, consistent with competition and cost-causation pricing of telecommunications services and enable customers to select plans that meet their individual calling patterns.

Optional LCPs are typically provided over toll switching routes instead of direct end office trunks. Because these services are provided through the use of essentially interexchange facilities, IXCs are in as good a position efficiently to provide these services as are ILECs.

9. Are there any recent developments in the telecommunications industry that should be considered by the Commission in its EAS related proceedings?

Yes. The Commission should also examine the impact of wireless services on the necessity of new EAS routes. As wireless companies are now offering flat rate plans without geographic limits, basically offering local and long-distance calling for a per-minute rate, the need for local exchange providers to extend local calling areas through traditional EAS routes is becoming more and more obsolete. The Commission should take into consideration the availability of wireless services and the subscription rates to those services when examining the need to implement new EAS routes.

ALECA would also like to call the Commission's attention to the widely publicized financial difficulties of the various telecommunications companies. Consequently, ALECA believes that any modification to existing revenue streams would not be prudent at this time.

Recently, the Oklahoma Corporation Commission revoked its EAS rules. In comments made by group of industry participants, a number of reasons for revocation of the rules were enumerated. Industry participants noted that mandatory EAS rules are unnecessary and anti-competitive, listing the following reasons why EAS arrangements are obsolete:

1) Create artificial barriers to competitive entry, thereby limiting consumer choice,
2) Create unfair competitive burdens and implicit subsidization,
3) Create adverse market incentives that damage, delay and deter competition,
4) Cause current competitors to leave the market because it is no longer profitable, and in effect cannibalizes the toll market,
5) Limit innovation by service providers to offer and differentiate offerings and stifle competition,
6) Impede customer choice and the market-based policies of the Federal Telecommunications Act of 1996, and
7) Create market distortions and barriers to the provision of retail service to consumers because flat-rate EAS rates are at odds with the traffic sensitive compensation process.

See Oklahoma Corporation Commission Cause No. RM 200200007, In the Matter of a Rulemaking by the Oklahoma Corporation Commission Amending OAC 165:60, Extended Area Service ("EAS"), Joint Comments of Industry Participants, filed on March 11, 2002.

10. Are there other services that could/should be offered in place of the current form of EAS being offered?

In today's rapidly changing telecommunications market, the traditional, flat rate, mandatory EAS should be replaced with market-driven alternatives for satisfying customer demand for expanded local calling. Optional LCPs are an equitable alternative to the one-price-fits-all approach, are also consistent with competition and cost-causation pricing of telecommunications services, and enable customers to select plans that meet their individual calling patterns.

Optional LCPs provide a high level of customer satisfaction because they allow customers to choose a plan that matches their individual calling patterns rather than requiring them to pay for EAS that may not fit their needs. For example, customers who incur a lot of toll charges for calls on a particular EAS route can choose a premium flat rate option, or conversely those customers who make fewer calls might find it to their advantage to choose a measured option. In addition, those customers who make few or no calls can decline EAS options altogether and pay only their monthly basic rate plus toll charges for any toll calls made.

11. Are there other factors, beyond those mentioned in previous questions, that should be considered in relation to EAS implementation?

ALECA believes that carrier-initiated Optional Local Calling Plans are a superior alternative to traditional, mandatory EAS.

12. How should EAS implementation be addressed in cases where the involved exchanges are owned by more than one company?

ALECA believes that the traditional industry arrangement between adjacent ILECs is the best way of handling multi-company EAS routes. The traditional arrangement is for each adjoining ILEC to bill the applicable local rates and EAS additives and keep the associated revenue, *i.e.*, bill and keep. Under the traditional bill-and-keep arrangement, each ILEC bears its own costs of building and maintaining interoffice facilities up to a "meet point" with the adjoining ILEC.

13. Rate center consolidation is a key number conservation methodology encouraged by the FCC. Should rate center consolidation also be implemented when EAS is implemented between exchanges? Provide the reasoning for your response and any supporting documentation.

No. ALECA believes that EAS should be regarded as an interexchange service. Consolidating rate centers joined by EAS routes would enable IXCs, CLECs and wireless carriers the opportunity to establish services in one exchange and have calls terminated in adjoining EAS exchanges without incurring exchange access charges for interoffice transport and local switching. The IXC, CLEC or wireless carrier's traffic would be routed between the formerly separate exchanges in the same manner as ordinary EAS traffic; that is, their traffic would be treated as local, not interexchange. In essence, the IXC, CLEC or wireless carrier would be able to provide its customers the same local calling scope as the ILEC's customers while avoiding exchange access charges.

14. What issues are there that should be considered when consolidating the rate centers of two or more ILECs in a local calling area?

1) The high potential for significant toll and access revenue reductions.
2) Effect on 911 services. When a rate center consolidation involves communities that are physically located in two separate counties, even though local calling may already exist via EAS arrangements, there can be an effect on 911 database information.
3) Unequal service levels – future rate center consolidations may result in various switches within the newly created rate center providing unequal levels of products and services – especially vertical/ancillary services like voice messaging. If all the switches in the new rate center are not equipped with the same generic capabilities, a customer porting from one switch to another may find the same service either not available at all or provided with different feature capability.
4) Consolidating rate centers creates additional multiple switch rate centers. The current FCC rules regarding qualification for additional numbering resources can result in situations where an individual switch may need growth resources or particular number blocks to meet a customer request but may not qualify to get those resources because it is part of a multiple switch rate center. The only way to finance providing service to requesting customers in this case is to file a waiver to acquire resources from NANPA.

15. What issues should be considered when consolidating the rate centers in a local calling area when both rural and non-rural carriers are involved?

One especially significant issue has to do with the fact that the FCC does not require rural providers to implement Local Number Portability (LNP); if a rural carrier receives a bona fide request from a competitor to implement LNP, federal rules allow the company to recover the costs of LNP through interstate access charges. A premature implementation of rate center consolidation (with implementation of LNP) would result in significant intrastate costs. LNP implementation to accommodate rate center consolidation would result in increased costs to the existing customers of the rural provider with no corresponding benefit to its customers. As LNP is an intricate component of rate center consolidation, the costs associated with its implementation in rural areas should be a factor in the Commission's assessment of this issue.

Another issue to consider is that benefits are generally limited to the metropolitan areas where multiple competitive carriers exist, and basic local calling covers a large geographic area and a large number of exchanges, i.e, Phoenix metro area.

16. Are there rate center consolidation orders or rules in other states that should be considered or adopted in Arizona? If so, please supply these rules or any related reports or other documents.

ALECA agrees with the following comments of the New Mexico Public Regulation Staff, filed on or about May 6, 2002:

> "It is evident from comments that rate center consolidation impacts Qwest and the rural carriers...quite differently. Therefore, it is Staff's recommendation that the Commission proceed with rate center consolidation in the manner and timing proposed by Qwest. Staff recommends that the Commission not proceed further with rate center consolidation for the rural LEC's; Staff would not oppose a variance excusing the rural carriers from implementing rate center consolidation, if one is considered necessary. It is Staff's understanding that Qwest and NMECG have no problem with Staff's recommendation." *Before the New Mexico Public Regulation Commission, Utility Case No. 3330 – In the Matter of the Petition of Neustar, Inc., on Behalf of the New Mexico Telecommunications Industry, For Approval of NPA Relief Plan for the 505 NPA, Staff's Response to ILEC's Filings on Rate Center Consolidation.*

17. Identify where expansion of EAS might be considered to promote rate center consolidation and/or eliminate existing opportunities for EAS bridging. Prioritize your recommendation and provide an estimate of the cost and revenue impact to your company.

ALECA is not aware of any instance in which EAS should be used to promote rate center consolidation or eliminate opportunities for EAS bridging.