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Before the
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
2000 Biennial Regulatory Review	)	
Comprehensive Review of the	)	CC Docket No. 00-199
Accounting Requirements and	)	Phase 3
ARMIS Reporting Requirements for	)	
Incumbent Local Exchange Carriers:	)	
Phase 2 and Phase 3	)	

Comments of

Iowa Telecommunications Services, Inc.

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February 13, 2001

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SUMMARY

Iowa Telecommunications Services, Inc. (Iowa Telecom) Iowa Telecom is a newly created price cap carrier commencing operations in July of 2000 after the purchase of Verizon (then GTE) property in Iowa. Over the short period Iowa Telecom has been in business, it has determined that significant additional investment will be necessary to maintain and upgrade its existing infrastructure and to roll out advanced services such as digital subscriber line (DSL) services to all portions of its territory. The elimination of burdensome and unnecessary regulation will free critical resources necessary to make this important investment in rural America.

In its comments in Phase 2 of this proceeding, Iowa Telecom demonstrated that the Commission should act expeditiously to eliminate CAM and ARMIS filings for all mid-size LECs. Iowa Telecom now submits that the Commission must do more to reduce regulatory burdens on mid-size carriers subject to facilities-based competition and suggests herein that recently introduced legislation, H.R. 496, serve as a model for that relief. This bill would eliminate CAM and ARMIS and provide the possibility of pricing flexibility or deregulation for all "two percent" local exchange carriers. Iowa Telecom proposes an alternative competitive trigger for smaller mid-size carriers that would provide price deregulation for LECs if the LEC

1. is below an annual revenue threshold of $750 million;
2. has a teledensity (i.e., access lines per square mile) of 20 or less; and
3. is subject to facilities-based competition in 5% of the exchanges.

As demonstrated herein, Iowa Telecom submits that it is now time for the Commission to reduce regulation of mid-size carriers particularly those like Iowa Telecom that are subject to significant facilities-based competition. Elimination of accounting and pricing regulation will put Iowa Telecom on even footing with neighboring rural independent LECs and will free the resources of such carriers so that they can focus on investment in the facilities required to provide innovative new services to all Americans in furtherance of the stated goals of the Telecommunications Act of 1996.

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Comments of Iowa Telecommunications Services, Inc.

Iowa Telecommunications, Inc. (Iowa Telecom), by its attorneys, respectfully submits its initial Phase 3 comments on the Commission's Notice of Proposed Rulemaking in the referenced docket concerning the Commission's efforts to, *inter alia*, develop a "roadmap" for accounting and reporting deregulation.[1]

I. Background and Introduction

Iowa Telecom is a rural telephone company serving territory in the state of Iowa. It commenced operations on July 1, 2000 following the purchase of the Iowa local exchange properties operated by Verizon Midwest. Iowa Telecom serves approximately 286,000 access lines in 296 exchanges spread over nearly 20,500 square miles of the state of Iowa. Given its low teledensity and geographically dispersed service territory, Iowa Telecom exhibits the operational characteristics of much smaller rural independent local exchange carriers.[2]

[1] *See* 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3, CC Docket 00-199, *Notice of Proposed Rulemaking*, FCC 00-364, para. 89 (rel. October 18, 2000) ("Notice").

[2] Iowa Telecom qualifies as a rural telephone company as defined by Sections 3(37)(A), (C) and (D) of the Communications Act of 1934, as amended (the "Act"). 47 U.S.C. §§ 153(37)(A), (C) and (D).

Unlike the much smaller independent LECs it resembles, Iowa Telecom is subject to a much more burdensome regulatory structure. In the seven months Iowa Telecom has been in operation, it has determined that significant investment will be necessary to maintain and upgrade the current infrastructure, and to roll out advanced services such as digital subscriber line (DSL) to all portions of its territory. Iowa Telecom submits that elimination of unnecessary and burdensome regulatory requirements will allow it to redirect these resources to make badly needed investments in its network and provide advanced services to its customer base.

Moreover, as discussed herein and its Phase 2 comments[3], Iowa Telecom is currently subject to significant competition from competitive local exchange carriers (CLECs), neighboring incumbent local exchange carriers and municipal utility entities overbuilding Iowa Telecom's rural exchange area. Consequently, Iowa Telecom seeks regulatory relief to eliminate unnecessary regulations and place it and other similarly situated mid-size carriers on a more even footing with such competitors currently subject to a much less burdensome and often more beneficial regulatory structure.

II. The Commission Should Eliminate CAM and ARMIS Requirements For Mid-Size Carriers As Proposed By Iowa Telecom in Phase 2

In Phase 3 of this proceeding, the Commission requests comment on, *inter alia*, whether there is a "point at which the Commission should completely eliminate its accounting and reporting requirements."[4] Iowa Telecom submits here, as it did in Phase 2 of this proceeding, that the Commission should act immediately to reduce the regulatory burdens of mid-size and smaller carriers. The Commission should take these actions immediately in the context of Phase 2 of this docket.

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[3] Comments of Iowa Telecommunications Service, CC Docket No. 00-199 Phase 2, December 21, 2000 (Phase 2 Comments of Iowa Telecom).

[4] *Notice* at para. 88.

Iowa Telecom and other mid-size carriers require immediate relief to free up capital necessary to roll-out DSL and other advanced services. In Phase 2 of this proceeding and in furtherance of this need, Iowa Telecom and other participants proposed the elimination of Cost Allocation Manual (CAM) and Automated Reporting Management Information System (ARMIS) requirements for all mid-size LECs.[5] Iowa Telecom also offered an alternative two-step approach to completely eliminate CAM and ARMIS requirements for the smallest mid-size carriers by immediately increasing the indexed revenue threshold from the current $114 million to $750 million. Under this alternative proposal, after a period of two years and coinciding with the 2002 biennial review process, ARMIS and CAM requirements would be eliminated for the remaining mid-size carriers with annual revenues between $750 million and $7 billion. Under this proposal, the Commission and industry would use the two-year period leading up to the 2002 biennial review to evaluate the beneficial consequences of its first step and monitor the level of competition experienced by larger mid-size carriers to determine the need and the impact of extending that relief to other carriers.[6]

In its Phase 2 Comments, Iowa Telecom justified the immediate elimination of ARMIS and CAM requirements for smaller but still "mid-size" carriers due in part to the fact that the Commission has already recognized that mid-size carriers, even those earning up to $7 billion in annual revenues, often "have limited resources."[7] Moreover, the cost of compliance with the

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[5] *See e.g.*, Phase 2 Comments of Iowa Telecom at 3, Comments of the Independent Telephone and Telecommunications Alliance, CC Docket No. 00-199, Phase 2, December 21, 2000, p. 8; Comments of the United States Telecom Association, CC Docket No. 00-199, Phase 2, December 21, 2000, p. 26.

[6] This approach is consistent with statements of Chairman Michael Powell who has advocated lesser regulatory burdens for mid-size carriers as a way to evaluate reductions in regulation and their possible impact on larger carriers. *See* "Working Toward Independents' Day: Mid-Size Carriers as the Special Forces of Deregulation", Michael K. Powell, Before the Independent Telephone Pioneer Association, Washington, DC, May 7, 1998 (as prepared for Delivery).

[7] *Notice* at para. 84.

CAM and ARMIS requirements has a disproportionately severe impact on such smaller carriers. Granting immediate relief to smaller mid-size carriers will not materially impact the quality or quantity of data available to the Commission or its ability to address complaints filed by interexchange carriers.[8] Finally, Iowa Telecom also provided justification for immediate relief from ARMIS and CAM requirements in light of the significant loss of customers to overbuilding competitors.

III. Iowa Telecom Also Supports Elimination of CAM and ARMIS For All "Two Percent" LECs

In the Notice the Commission also sought comment on whether its deregulatory efforts "should proceed in a different fashion, for companies with fewer than two percent of [the nation's] access lines."[9] As indicated herein, Iowa Telecom has proposed relief for all mid-size LECs and in the alternative for smaller mid-size LECs below an annual revenue threshold of $750 million. However, Iowa Telecom would support elimination of Commission accounting and reporting requirements for all LECs with fewer than two percent of the nation's access lines as has been proposed by legislation passed in the House last year and recently reintroduced in the 107th Congress.[10] The Congressionally recognized two-percent access line threshold is a legitimate cut-off point for taking this action.

IV. The Commission Should Go Much Further To Reduce Regulatory Burdens For Mid-Size LECs, Particularly Those Facing Facilities-Based Competition

At the same time the Commission is considering elimination of accounting and reporting requirements imposed on mid-size LECs, it should also consider the adoption of further relief consistent with House-passed H.R. 3850 which has now been reintroduced in the 107th Congress.

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[8] Phase 2 Comments of Iowa Telecom, p 3-4.

[9] *Notice* at para. 95.

[10] *See* H.R. 496, 107th Cong. (H.R.496) (Attached as Exhibit 1); *See also* H.R. 3850, 106th Cong.; S. 2572, 106th Cong..

The legislation, H.R. 496, if enacted, would not only eliminate CAM and ARMIS requirements for all "two percent" carriers but would provide streamlined tariff filings for new services, as well as significant pricing flexibility and even price deregulation if the carrier is subject to facilities-based competition.[11] Indeed, the proposed legislation is evidence that Congress views the need for regulatory relief for mid-size carriers as going significantly beyond just the elimination of CAM and ARMIS requirements.

The proposed legislation would, *inter alia*, allow a "two percent LEC" subject to facilities-based competition from an unaffiliated telecommunications carrier to: (1) de-average its interstate switched or special access rates; (2) file tariffs on one day's notice; and (3) file contract based tariffs for interstate switched or special access services.[12] Moreover, the legislation would provide a two percent LEC with full interstate pricing deregulation if another local exchange carrier entered the two percent LEC's territory as a facilities-based competitor.[13]

This legislation should serve as notice to the Commission that mid-size carriers are in need of immediate relief and the Commission should heed Congress' express purpose for this legislation, i.e., "to accelerate the deployment of advanced services and the development of competition . . . by reducing regulatory burdens on [two percent] local exchange carriers . . . to allow such carriers to redirect resources from paying the costs of such regulatory burdens to increasing investment in [advanced services]."[14] Iowa Telecom submits that such regulatory relief would significantly reduce the costs of regulatory compliance and would assist small carriers like Iowa Telecom with the roll-out of advanced services. Accordingly, in addition to

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[11] *Id.*

[12] H.R. 496, §286.

[13] *Id.*

[14] *Id.* §2(b)

the elimination of CAM and ARMIS requirements for mid-size carriers, the Commission should consider and adopt the additional deregulatory aspects of this legislation.

However, should the Commission determine that application of such deregulatory treatment to all "two percent" LECs is not justified in today's competitive environment, Iowa Telecom proposes an alternative trigger that would more specifically target small carriers deserving of pricing flexibility and/or full deregulation. Iowa Telecom proposes a three-prong test to identify smaller mid-size LECs exhibiting rural characteristics that are subject to facilities-based competition. This test may serve as an interim trigger to substitute for the 2 percent LEC threshold proposed in H.R. 496. Specifically, Iowa Telecom proposes that the Commission grant price deregulation consistent with H.R. 496 to a LEC if it:

1. is below an annual revenue threshold of $750 million;
2. has a teledensity (i.e., access lines per square mile) of 20 or less; and
3. is subject to facilities-based competition in 5% of the exchanges.

The proposed trigger recognizes congressional concerns that smaller carriers be freed from burdensome regulation to make crucial investments in network infrastructure and to enhance competitive opportunities of these carriers. Use of the $750 million revenue threshold will limit the scope of carriers eligible for relief to those carriers that are likely to feel the greatest and most disproportionate impact from the Commission's accounting and pricing regulations. Use of the teledensity prong of the test is also appropriate, as it will further ensure that only smaller rural carriers with higher costs associated with less dense service territories obtain immediate relief.[15] If H.R. 496 or similar legislation is not enacted, the Commission should further consider during the next biennial review period upward adjustments to the annual

[15] The Commission has recently utilized the teledensity concept to provide differing pricing levels for rural price cap carriers. *See* 47 C.F.R. §61.3(qq).

revenue threshold and teledensity prongs of the test after evaluating the benefits of adopting this proposal.

V. Elimination of CAM and ARMIS Requirements in Phase 2 and Elimination of All Accounting and Pricing Restrictions In Phase 3 Are Particularly Appropriate For Smaller Carriers Like Iowa Telecom That Are Subject To "Meaningful Economic Competition"

Section 11 of the Act requires the Commission to conduct a biennial regulatory review process to periodically review its regulations and "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service."[16] If the Commission determines that its regulations are no longer necessary they must be repealed or modified.[17] In Phase 2 of this proceeding, Iowa Telecom amply demonstrated that it is appropriate for the Commission to eliminate CAM and ARMIS requirements for smaller mid-size LECs.[18] Iowa Telecom submits that elimination of accounting and pricing regulation as described herein is also appropriate for LECs meeting the three-part test described above. In Phase 3, if a rural mid-size LEC is subject to facilities-based competition in at least 5% of its exchanges, that LEC should be considered to be subject to "meaningful economic competition" justifying elimination of the Commission's accounting and pricing regulations.

Iowa Telecom is currently experiencing substantial facilities-based competition from CLECs, municipalities and neighboring rural ILECs.[19] Significantly, the source of this competition comes from overbuilding. That means competitors have assessed the economics of

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[16] 47 U.S.C. § 161(a)

[17] 47 U.S.C. § 161(b)

[18] *See gen.* Phase 2 Comments of Iowa Telecom

[19] Exhibit 2, attached provides a list of competing carriers operating in Iowa Telecom's territory.

competitive entry and the state of Iowa Telecom's plant and switching capability and have determined that it makes more sense for competing carriers to build their own facilities as opposed to purchasing facilities from Iowa Telecom on a wholesale or unbundled network element (UNE) basis.[20] Consequently, Iowa Telecom is experiencing significant line losses in many of its exchanges. Ironically, it is the operation of the current regulatory environment that has rendered Iowa Telecom so vulnerable to overbuilders.

Many of Iowa Telecom's competitors are affiliated with rural incumbent LECs that benefit from universal service support, higher interstate access charges and far less regulatory burdens. Unlike these competitors, Iowa Telecom receives no high cost loop or local switching support from the Universal Service Fund. The regulatory framework afforded these rural ILEC competitors allows them to keep local rates at lower levels rendering Iowa Telecom vulnerable to competition, while generating sufficient revenue to make upgrades to their networks and fund overbuilding outside of their franchise territories.

Iowa Telecom's operations are very rural in nature and, like other independent LECs in Iowa, are characterized by low population density and above average local loop lengths.[21] Despite the extreme rural characteristics of its territory, Iowa Telecom does not currently receive any assistance from the High Cost Loop ("HCL") fund.[22] In addition, Iowa Telecom is the nation's smallest price cap carrier. Iowa Telecom elected to become a price cap carrier based on

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[20] This fact alone is compelling evidence of Iowa Telecom's need to make significant investments to upgrade its facilities.

[21] The line density of Iowa Telecom's service territory is only 14 access lines per square mile. More than half of Iowa Telecom's exchanges (152) have 500 or less access lines. Only 5 Iowa Telecom's exchanges have more than 5,000 access lines, and all of Iowa Telecom's exchanges have less than 12,000 access lines. Significantly, at least twenty percent of Iowa Telecom's access lines are located more than 3 miles from the nearest central office.

[22] 47 C.F.R. Section 36.631. This denial of any assistance for Iowa Telecom's provision of supported services is due to the inflexible operation of Section 54.305 of the FCC's rules.

an analysis of the Commission's rules in the summer of 1999 prior to changes wrought by last year's *CALLS Order.* [23] The Commission's action resulted in an unexpected and involuntary additional reduction of Iowa Telecom's interstate revenues of $1.2 million the first year of the CALLS plan. Iowa Telecom submits that due to the level of competition in the state and the need for revenue to fund infrastructure improvement, this additional revenue reduction was unwarranted.

By contrast, Iowa Telecom's neighboring rural ILECs are regulated as rate-of-return carriers or average schedule companies allowing these ILECs to benefit from significantly higher access rates.[24] Historically, higher interstate access rates allow such carriers to charge significantly less for local services. The combination of such higher access rates and HCL support in today's competitive environment is subsidizing the overbuilding rampant in Iowa Telecom's territory. These carriers are leveraging upon their USF-supported ILEC exchange networks to extend modern digital plant into Iowa Telecom's service territory and thereby compete with its significantly older analog plant.

These ILECs (and their CLEC operations) are far less burdened by the Commission's accounting and pricing regulations. CLECs and rural ILECs have virtually no federal reporting burden. CLECs have limited pricing constraints while rural incumbent LECs have a far less

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[23] Access Charge Reform, CC Docket No. 96-262, *Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, and Eleventh Report and Order in CC Docket No. 96-45*, FCC 00-193 (rel. May 31, 2000) (*CALLS Order*). The *CALLS Order* was proposed by the Commission as a voluntary plan, that at the eleventh hour was made mandatory upon all price cap carriers, even those like Iowa Telecom, that were not a party to the CALLS coalition.

[24] Iowa Telecom estimates that the average terminating interstate access rate of neighboring independent ILECs is approximately $0.045, more than 400% higher than its own terminating rate of approximately $0.01. Indeed, independent ILECs represented by the Multi-Association Group (MAG) are proposing an access charge reform plan for rate-of-return companies that would establish a composite access rate of $0.016 in the 3rd year of the plan. The adoption of this rate would also be significantly higher than Iowa Telecom's Average Traffic Sensitive (ATS) target rate of $0.0095 required by the CALLS plan.

burdensome tariff regime under Section 61.39 of the Commission's Rules.[25] Moreover, many of Iowa Telecom's ILEC based competitors receive federal universal service in the form of High Cost Loop support while Iowa Telecom does not. Consequently, Iowa Telecom submits that it and other similarly situated carriers should be afforded regulatory relief in order to level the rural playing field.

Currently, there are 125 competitive local exchange carriers (CLECs) authorized to serve the State of Iowa. To date, 17 CLECs are offering service in portions of Iowa Telecom's market.[26] Iowa Telecom is subject to competition by overbuilders in approximately 10% of its exchanges and is feeling the impact of competition, losing between 19% and 98% of its access lines in at least sixteen of its exchanges.[27]

For example, since November 1999, the Solon, Iowa exchange has lost 1,154 (or 61%) of its access lines to an overbuilder. Again, for example consider the community of Oxford Junction located in Jones County, Iowa. Oxford Junction (pop. 600) is located on the banks of the Wapsipinicon River approximately 25 miles west of Cedar Rapids, Iowa. Iowa Telecom has lost 98 percent of its customers to overbuilding by the Lost Nation-Elwood Telephone Co. (Lost Nation). Lost Nation is the incumbent LEC serving the communities of Elwood and Lost Nation, IA in neighboring Clinton County. The combination of regulatory disparity, no High Cost Loop Support, and antiquated network infrastructure makes it difficult for Iowa Telecom to compete with CLECs, particularly those affiliated with rural ILECs that can afford to compete with subsidized state-of-the-art infrastructure.

This facilities-based competition has an even greater impact upon Iowa Telecom than competition from the typical CLEC seeking unbundled network elements. With purely facilities-

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[25] 47 C.F.R. §61.39 (providing for tariff filings that are presumed law and that do not require cost support).

[26] Exhibit 2, hereto provides a list of these competitors many of which are rural local exchange carriers.

[27] Exhibit 3, hereto provides a chart detailing line loss in Iowa Telecom's exchanges.

based competition, Iowa Telecom is completely cut-off from recovery of any of its investment in each loop it loses to a competitor. In Oxford Junction, although Iowa Telecom remains the carrier of last resort, the monthly revenue generated from its few remaining customers does not cover the costs of the electricity necessary to operate Iowa Telecom's switch in Oxford Junction.

VI. Elimination of Accounting and Pricing Rules Will Not Significantly Harm Consumers or the Commission's Data Collection or Enforcement Efforts

As demonstrated in Phase 2 of this proceeding, immediate elimination of CAM and ARMIS requirements for smaller mid-size LECs will have a de minimis impact on Commission processes. The focus of the Commission's oversight, as embodied in its accounting and pricing rules, is squarely on interstate access rates. The Commission's CAM is designed to monitor the allocation of costs between regulated and non-regulated activities as a method of monitoring interstate access rates. In addition, elimination of ARMIS requirements for smaller carriers should have little impact because, under Iowa Telecom's plan, data will continue to be collected from larger mid-size carriers and the largest LECs representing over 90% of the nation's access lines. Should the Commission see the need for additional data, it has ample authority to request it.

The competitive pressure from facilities-based competitors, as described above, will keep interstate access rates in check. To the extent the incumbent's rates are artificially high, it provides for additional incentive for further competitive entry. Moreover, Iowa Telecom's access customers are large interexchange carriers like AT&T, which if unhappy with access rate levels, have a number of options at their disposal. IXCs may seek a competitive provider of access services among the growing number of facilities-based competitors established in Iowa Telecom's territory or build their own access facilities. IXCs could also choose not to serve areas where access rates are not competitive.

Ultimately, mid-size carriers will continue to be subject to Sections 201 and 202 of the Act which require carriers to, *inter alia*, charge just, reasonable and non-discriminatory access rates. The Commission's enforcement capabilities, including the Section 208 complaint process, is always available to the public to ensure compliance with these and other provisions of the Act and the Commission's Rules. Large IXCs like AT&T have ample resources to take part in this process. Indeed, taking this step is consistent with Chairman Powell's call for "strengthening enforcement rather than continuing to rely on prospective, prophylactic regulation.[28]

Conclusion

Iowa Telecom respectfully requests that the Commission expeditiously eliminate the significant regulatory burdens imposed upon smaller mid-size LECs as described herein.

Respectfully submitted,

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[28] *See* "Working Toward Independents' Day: Mid-Size Carriers as the Special Forces of Deregulation", Michael K. Powell, Before the Independent Telephone Pioneer Association, Washington, DC, May 7, 1998 (as prepared for Delivery).

Exhibit 1

107TH CONGRESS
1ST SESSION

H. R. 496

To amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2001

Mrs. CUBIN (for herself, Mr. GORDON, Mr. BARRETT of Wisconsin, Mr. PICKERING, and Mr. LARGENT) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Independent Tele-
5 communications Consumer Enhancement Act of 2001".

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) The Telecommunications Act of 1996 was
4 enacted to foster the rapid deployment of advanced
5 telecommunications and information technologies
6 and services to all Americans by promoting competi-
7 tion and reducing regulation in telecommunications
8 markets nationwide.

9 (2) The Telecommunications Act of 1996 spe-
10 cifically recognized the unique abilities and cir-
11 cumstances of local exchange carriers with fewer
12 than two percent of the Nation's subscriber lines in-
13 stalled in the aggregate nationwide.

14 (3) Given the markets two percent carriers typi-
15 cally serve, such carriers are uniquely positioned to
16 accelerate the deployment of advanced services and
17 competitive initiatives for the benefit of consumers
18 in less densely populated regions of the Nation.

19 (4) Existing regulations are typically tailored to
20 the circumstances of larger carriers and therefore
21 often impose disproportionate burdens on two per-
22 cent carriers, impeding such carriers' deployment of
23 advanced telecommunications services and competi-
24 tive initiatives to consumers in less densely popu-
25 lated regions of the Nation.

(5) Reducing regulatory burdens on two percent carriers will enable such carriers to devote additional resources to the deployment of advanced services and to competitive initiatives to benefit consumers in less densely populated regions of the Nation.

(6) Reducing regulatory burdens on two percent carriers will increase such carriers' ability to respond to marketplace conditions, allowing them to accelerate deployment of advanced services and competitive initiatives to benefit consumers in less densely populated regions of the Nation.

(b) PURPOSES.—The purposes of this Act are—

(1) to accelerate the deployment of advanced services and the development of competition in the telecommunications industry for the benefit of consumers in all regions of the Nation, consistent with the Telecommunications Act of 1996, by reducing regulatory burdens on local exchange carriers with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide;

(2) to improve such carriers' flexibility to undertake such initiatives; and

(3) to allow such carriers to redirect resources from paying the costs of such regulatory burdens to increasing investment in such initiatives.

1 **SEC. 3. DEFINITION.**

2 Section 3 of the Communications Act of 1934 (47
3 U.S.C. 153) is amended—

4 (1) by redesignating paragraphs (51) and (52)
5 as paragraphs (52) and (53), respectively; and

6 (2) by inserting after paragraph (50) the fol-
7 lowing:

8 "(51) TWO PERCENT CARRIER.—The term 'two
9 percent carrier' means an incumbent local exchange
10 carrier within the meaning of section 251(h) that
11 has fewer than two percent of the Nation's sub-
12 scriber lines installed in the aggregate nationwide.".

13 **SEC. 4. REGULATORY RELIEF FOR TWO PERCENT CAR-**
14 **RIERS.**

15 Title II of the Communications Act of 1934 is
16 amended by adding at the end thereof a new part IV as
17 follows:

18 **"PART IV—PROVISIONS CONCERNING TWO**
19 **PERCENT CARRIERS**

20 **"SEC. 281. REDUCED REGULATORY REQUIREMENTS FOR**
21 **TWO PERCENT CARRIERS.**

22 "(a) COMMISSION TO TAKE INTO ACCOUNT DIF-
23 FERENCES.—In adopting rules that apply to incumbent
24 local exchange carriers (within the meaning of section
25 251(h)), the Commission shall separately evaluate the bur-

1 den that any proposed regulatory, compliance, or report-
2 ing requirements would have on two percent carriers.
3 "(b) EFFECT OF RECONSIDERATION OR WAIVER.—
4 If the Commission adopts a rule that applies to incumbent
5 local exchange carriers and fails to separately evaluate the
6 burden that any proposed regulatory, compliance, or re-
7 porting requirement would have on two percent carriers,
8 the Commission shall not enforce the rule against two per-
9 cent carriers unless and until the Commission performs
10 such separate evaluation.
11 "(c) ADDITIONAL REVIEW NOT REQUIRED.—Noth-
12 ing in this section shall be construed to require the Com-
13 mission to conduct a separate evaluation under subsection
14 (a) if the rules adopted do not apply to two percent car-
15 riers, or such carriers are exempted from such rules.
16 "(d) SAVINGS CLAUSE.—Nothing in this section shall
17 be construed to prohibit any size-based differentiation
18 among carriers mandated by this Act, chapter 6 of title
19 5, United States Code, the Commission's rules, or any
20 other provision of law.
21 "(e) EFFECTIVE DATE.—The provisions of this sec-
22 tion shall apply with respect to any rule adopted on or
23 after the date of enactment of this section.

1 **"SEC. 282. LIMITATION OF REPORTING REQUIREMENTS.**

2 "(a) LIMITATION.—The Commission shall not require
3 a two percent carrier—

4 "(1) to file cost allocation manuals or to have
5 such manuals audited, but a two percent carrier that
6 qualifies as a class A carrier shall annually certify
7 to the Commission that the two percent carrier's
8 cost allocation complies with the rules of the Com-
9 mission; or

10 "(2) to file Automated Reporting and Manage-
11 ment Information Systems (ARMIS) reports.

12 "(b) PRESERVATION OF AUTHORITY.—Except as
13 provided in subsection (a), nothing in this Act limits the
14 authority of the Commission to obtain access to informa-
15 tion under sections 211, 213, 215, 218, and 220 with re-
16 spect to two percent carriers.

17 **"SEC. 283. INTEGRATED OPERATION OF TWO PERCENT**
18 **CARRIERS.**

19 "The Commission shall not require any two percent
20 carrier to establish or maintain a separate affiliate to pro-
21 vide any common carrier or noncommon carrier services,
22 including local and interexchange services, commercial mo-
23 bile radio services, advanced services (within the meaning
24 of section 706 of the Telecommunications Act of 1996),
25 paging, Internet, information services or other enhanced
26 services, or other services. The Commission shall not re-

1 quire any two percent carrier and its affiliates to maintain
2 separate officers, directors, or other personnel, network fa-
3 cilities, buildings, research and development departments,
4 books of account, financing, marketing, provisioning, or
5 other operations.

6 **"SEC. 284. PARTICIPATION IN TARIFF POOLS AND PRICE**
7 **CAP REGULATION.**

8 "(a) NECA POOL.—The participation or withdrawal
9 from participation by a two percent carrier of one or more
10 study areas in the common line tariff administered and
11 filed by the National Exchange Carrier Association or any
12 successor tariff or administrator shall not obligate such
13 carrier to participate or withdraw from participation in
14 such tariff for any other study area.

15 "(b) PRICE CAP REGULATION.—A two percent car-
16 rier may elect to be regulated by the Commission under
17 price cap rate regulation, or elect to withdraw from such
18 regulation, for one or more of its study areas at any time.
19 The Commission shall not require a carrier making an
20 election under this paragraph with respect to any study
21 area or areas to make the same election for any other
22 study area.

1 **"SEC. 285. DEPLOYMENT OF NEW TELECOMMUNICATIONS**
2 **SERVICES BY TWO PERCENT COMPANIES.**

3 "The Commission shall permit two percent carriers
4 to introduce new interstate telecommunications services by
5 filing a tariff on one day's notice showing the charges,
6 classifications, regulations and practices therefor, without
7 obtaining a waiver, or make any other showing before the
8 Commission in advance of the tariff filing. The Commis-
9 sion shall not have authority to approve or disapprove the
10 rate structure for such services shown in such tariff.

11 **"SEC. 286. ENTRY OF COMPETING CARRIER.**

12 "(a) PRICING FLEXIBILITY.—Notwithstanding any
13 other provision of this Act, any two percent carrier shall
14 be permitted to deaverage its interstate switched or special
15 access rates, file tariffs on one day's notice, and file con-
16 tract-based tariffs for interstate switched or special access
17 services immediately upon certifying to the Commission
18 that a telecommunications carrier unaffiliated with such
19 carrier is engaged in facilities-based entry within such car-
20 rier's service area.

21 "(b) PRICING DEREGULATION.—Notwithstanding
22 any other provision of this Act, upon receipt by the Com-
23 mission of a certification by a two percent carrier that a
24 local exchange carrier that is not a two percent carrier
25 is engaged in facilities-based entry within the two percent
26 carrier's service area, the Commission shall regulate such

1 two percent carrier as non-dominant, and therefore shall
2 not require the tariffing of the interstate service offerings
3 of such two percent carrier.

4 "(c) PARTICIPATION IN EXCHANGE CARRIER ASSO-
5 CIATION TARIFF.—A two percent carrier that meets the
6 requirements of subsection (a) or (b) of this section with
7 respect to one or more study areas shall be permitted to
8 participate in the common line tariff administered and
9 filed by the National Exchange Carrier Association or any
10 successor tariff or administrator, by electing to include
11 one or more of its study areas in such tariff.

12 "(d) DEFINITIONS.—For purposes of this section:

13 "(1) FACILITIES-BASED ENTRY.—The term 'fa-
14 cilities-based entry' means, within the service area of
15 a two percent carrier—

16 "(A) the provision or procurement of local
17 telephone exchange switching capability; and

18 "(B) the provision of local exchange service
19 to at least one unaffiliated customer.

20 "(2) CONTRACT-BASED TARIFF.—The term
21 'contract-based tariff' shall mean a tariff based on
22 a service contract entered into between a two per-
23 cent carrier and one or more customers of such car-
24 rier. Such tariff shall include—

"(A) the term of the contract, including any renewal options;

"(B) a brief description of each of the services provided under the contract;

"(C) minimum volume commitments for each service, if any;

"(D) the contract price for each service or services at the volume levels committed to by the customer or customers;

"(E) a brief description of any volume discounts built into the contract rate structure; and

"(F) a general description of any other classifications, practices, and regulations affecting the contract rate.

"(3) SERVICE AREA.—The term 'service area' has the same meaning as in section 214(e)(5).

"SEC. 287. SAVINGS PROVISIONS.

"(a) COMMISSION AUTHORITY.—Nothing in this part shall be construed to restrict the authority of the Commission under sections 201 through 205 and 208.

"(b) RURAL TELEPHONE COMPANY RIGHTS.—Nothing in this part shall be construed to diminish the rights of rural telephone companies otherwise accorded by this Act, or the rules, policies, procedures, guidelines, and

1 standards of the Commission as of the date of enactment
2 of this section.".

3 **SEC. 5. LIMITATION ON MERGER REVIEW.**

4 (a) AMENDMENT.—Section 310 of the Communica-
5 tions Act of 1934 (47 U.S.C. 310) is amended by adding
6 at the end the following:

7 "(f) DEADLINE FOR MAKING PUBLIC INTEREST DE-
8 TERMINATION.—

9 "(1) TIME LIMIT.—In connection with any
10 merger between two percent carriers, or the acquisi-
11 tion, directly or indirectly, by a two percent carrier
12 or its affiliate of the securities or assets of another
13 two percent carrier or its affiliate, the Commission
14 shall make any determination required by subsection
15 (d) of this section or section 214 not later than 60
16 days after the date an application with respect to
17 such merger is submitted to the Commission.

18 "(2) APPROVAL ABSENT ACTION.—If the Com-
19 mission does not approve or deny an application as
20 described in paragraph (1) by the end of the period
21 specified, the application shall be deemed approved
22 on the day after the end of such period. Any such
23 application deemed approved under this subsection
24 shall be deemed approved without conditions.".

1 (b) EFFECTIVE DATE.—The provisions of this sec-
2 tion shall apply with respect to any application that is sub-
3 mitted to the Commission on or after the date of enact-
4 ment of this Act. Applications pending with the Commis-
5 sion on the date of enactment of this Act shall be subject
6 to the requirements of this section as if they had been
7 filed with the Commission on the date of enactment of
8 this Act.

9 **SEC. 6. TIME LIMITS FOR ACTION ON PETITIONS FOR RE-**
10 **CONSIDERATION OR WAIVER.**

11 (a) AMENDMENT.—Section 405 of the Communica-
12 tions Act of 1934 (47 U.S.C. 405) is amended by adding
13 to the end the following:

14 "(e) EXPEDITED ACTION REQUIRED.—

15 "(1) TIME LIMIT.—Within 90 days after receiv-
16 ing from a two percent carrier a petition for recon-
17 sideration filed under this section or a petition for
18 waiver of a rule, policy, or other Commission re-
19 quirement, the Commission shall issue an order
20 granting or denying such petition. If the Commission
21 fails to act on a petition for waiver subject to the
22 requirements of this section within this 90-day pe-
23 riod, the relief sought in such petition shall be
24 deemed granted. If the Commission fails to act on
25 a petition for reconsideration subject to the require-

1 ments of this section within this 90 day period, the
2 Commission's enforcement of any rule the reconsid-
3 eration of which was specifically sought by the peti-
4 tioning party shall be stayed with respect to that
5 party until the Commission issues an order granting
6 or denying such petition.

7 "(2) FINALITY OF ACTION.—Any order issued
8 under paragraph (1), or any grant of a petition for
9 waiver that is deemed to occur as a result of the
10 Commission's failure to act under paragraph (1),
11 shall be a final order and may be appealed.".

12 (b) EFFECTIVE DATE.—The provisions of this sec-
13 tion shall apply with respect to any petition for reconsider-
14 ation or petition for waiver that is submitted to the Com-
15 mission on or after the date of enactment of this Act.
16 Pending petitions for reconsideration or petitions for waiv-
17 er shall be subject to the requirements of this section as
18 if they had been filed on the date of enactment of this
19 Act.

○

Exhibit 2

Competitive Local Exchange Carriers Operating in Iowa Telecom Territory

Cedar Communications, LLC (Clarence Telephone Co.)
Comm South Companies, Inc.
Coon Creek Telecommunications
Coon Rapids Municipal Communications Utility
Farmers And Business Mens Telephone co.
Forest City Telecom, Inc.
Grundy Center Communications Utility
Heart of Iowa Telecommunications, Inc.
EZ Phone Connection
Independent Networks, Inc.
Louisa Communications, LC
Lost Nation-Elwood Telephone Co.
LTDS Corp
Manning Municipal Communications and Television System Utility
Mid-Iowa Telephone Coop Assoc.
OmniTel Communications
South Slope Cooperative Telephone Co.

Exhibit 3

Iowa Telecommunications Service, Inc.
Percentage Loss of Customers

Exchange	***% Line Loss***
OXFORD JUNCTION CONRAD SOLON TIFFIN FOREST CITY OXFORD	51% - 98%
COON RAPIDS DELMAR STEAMBOAT ROCK LOWDEN STANWOOD ELDORA	40% - 50%
BENNETT BELLE PLAINE ARMSTRONG MARENGO	19% - 39%