Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Jurisdictional Separations and	)	
Referral to the Federal-State	)	CC Docket No. 80-286
Joint Board	)	

COMMENTS OF
THE
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

In a March 20, 2017 Further Notice of Proposed Rulemaking ("FNPRM") in this docket, the Federal Communications Commission ("FCC" or "Commission") proposed to continue the separations freeze – which has been in effect since 2001 – for eighteen more months.[1] The previous extension in 2014 was for three years.[2] The Commission requested public comment.[3]

Jurisdictional separations is "the process by which incumbent [local exchange carriers] LECs apportion regulated costs between the interstate and intrastate jurisdictions."[4] As demonstrated by the joint comments of the National Association of State Utility Consumer Advocates ("NASUCA"), the New Jersey Division of Rate Counsel, and the Maine Office of Public Advocate filed in 2006, which included expert affidavits, the separations freeze was costing consumers billions of dollars each year.[5] Extending the freeze further extends the cost to consumers.

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[1] CC Docket No. 80-286, FNPRM, FCC 14-27 (rel. March 20, 2017) ("2017 FNPRM").

[2] CC Docket No. 80-286, Report and Order, 29 FCC Rcd 6470 (2014). NASUCA commented at that time. See https://ecfsapi.fcc.gov/file/7521098397.pdf.

[3] 2017 FNPRM, ¶ 1.

[4] CC Docket No. 80-286, FNPRM (March 27, 2014).

[5] The 2006 comments are accessible at http://apps.fcc.aov/ecfs/documentlview?id"6518439161 (see esp. at 2-4); the affidavit of Susan Baldwin is accessible at https://ecfsapi.fcc.gov/file/6518439162.pdf; and the affidavit of Dr. Robert Loube is accessible at https://ecfsapi.fcc.gov/file/6518439165.pdf.

In its 2017 NPRM, the Commission describes separations as "the third step in a four-step regulatory process that begins with a carrier's accounting system and ends with the establishment of tariffed rates for the ILEC's interstate and intrastate regulated services."[6] The Commission's detailing of the first three steps is correct, but the third step of the process, jurisdictional separations, has a profound impact on the rates that are ultimately established, tariffed or not. Jurisdictional separations is the key to ensuring that consumers are not paying more than they should, for interstate and for intrastate services.[7]

Especially in that light, it is clear that the frozen rules are outdated, "given the significant changes in technologies and investment decisions, as well as changes in regulatory approaches at both the state and federal levels"[8] since 2001. The Commission notes that reinstating the separations rules "would require substantial training and investment."[9] Part of this is, of course, the result of the length of the freeze. NASUCA sincerely hopes that that the result, after the further eighteen-month extension, will not be to allow the freeze to continue indefinitely, ignoring the continuing costs to consumers.

Respectfully submitted,

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[6] 2017 FNPRM, ¶ 3.

[7] The Commission asks for the impacts of the freeze on "small entities." 2017 FNPRM, ¶ 9. As part of any cost-benefit analysis (see Chairman Pai's speech https://www.fcc.gov/document/chairman-pai-economic-analysis-communications-policy), the impact on consumers (small and large) must be recognized.

[8] 2017 FNPRM, ¶ 8.

[9] Id.

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