

**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)	

**REPLY COMMENTS OF
THE
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**

There were only seven comments filed in response to the March 20, 2017 Further Notice of Proposed Rulemaking (“FNPRM”), where the the Federal Communications Commission (“FCC” or “Commission”) proposed to continue the separations freeze. The National Association of State Utility Consumer Advocates (“NASUCA”) – on behalf of the consumers harmed by the freeze – files these reply comments to respond to some of the industry comments.

In the FNPRM, the Commission proposed to extend the freeze – which has been in effect since 2001 – for eighteen more months.¹ But NTCA – The Rural Broadband Association (“NTCA”) in essence proposes an indefinite extension.² The United States Telecom Association’s (“USTA’s”) support for the FCC’s proposal is based on the assumption that eighteen months will provide “adequate time” for the Federal-State Joint Board on Jurisdictional Separations (“Joint Board”) to “review” and “carefully consider” the jurisdictional separations rules.³ Given the billions of dollars per year in harm to consumers from the freeze⁴ and the

¹ CC Docket No. 80-286, FNPRM, FCC 14-27 (rel. March 20, 2017) (“2017 FNPRM”). The previous extension in 2014 was for three years. CC Docket No. 80-286, Report and Order, 29 FCC Rcd 6470 (2014).

² NTCA Comments at 1.

³ United States Telecom Associations Comments at 1-2.

⁴ See the joint comments of NASUCA the New Jersey Division of Rate Counsel, and the Maine Office of Public Advocate filed in 2006, accessible at <https://ecfsapi.fcc.gov/file/6518609363.pdf> (at 2-4); the attached affidavit of

sixteen year delay so far, any additional delay is too long. “[G]iven the significant changes in technologies and investment decisions, as well as changes in regulatory approaches at both the state and federal levels”⁵ since 2001, the freeze should not be perpetuated.

Further, the USTA suggests that certain carriers should be allowed to choose whether to continue the freeze, or whether to readjust separations if that is in their financial interest.⁶ Section 254(k) directs the Commission to act “to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.”⁷ In the context of updating jurisdictional separations, the Commission should consider the interest of consumers as ratepayers first and foremost. The USTA’s proposed resolution of the separations freeze is not in the public interest.

Respectfully submitted,

David Springe, Executive Director
NASUCA
8380 Colesville Road, Suite 101
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

David C. Bergmann
Counsel
3293 Noreen Drive
Columbus, OH 43221
Phone (614) 771-5979
david.c.bergmann@gmail.com

April 24, 2017

Susan Baldwin accessible at <https://ecfsapi.fcc.gov/file/6518439162.pdf>; and the attached affidavit of Dr. Robert Loube accessible at <https://ecfsapi.fcc.gov/file/6518439165.pdf>.

⁵ 2017 FNPRM, ¶ 8.

⁶ United States Telecom Association Comments at 2, 6; see also Terral Telephone Company Comments.

⁷ 47 U.S.C. § 254(k); see Baldwin affidavit at 13.