

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

In the Matter of)	
)	
PUERTO RICO TELEPHONE)	
COMPANY PETITION FOR)	
ELECTION OF PRICE-CAP)	WC Docket No. 07-292
REGULATION AND FOR LIMITED)	
WAIVER OF PRICING AND UNIVERSAL)	
SERVICE RULES)	

**COMMENTS OF THE
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

To the Commission:

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits comments on the Petition of Puerto Rico Telephone Company (PRTC) for Election of Price Cap Regulation and for Limited Waiver of Pricing and Universal Service Rules (Petition). ITTA supports PRTC's request for relief. The evolving telecommunications market warrants Commission action that accords carriers flexibility to meet market demands and strategic needs.

ITTA is an alliance of mid-sized local exchange carriers (LECs). ITTA members collectively provide local exchange and exchange access services to more than 25 million lines in 45 states. ITTA members also offer interexchange (IXC) services, commercial mobile radio services (CMRS), and information services, both as incumbent LECs (ILECs) and competitive LECs (CLECs).

PRTC explains that price-cap regulation will enable it to operate with greater efficiency, productivity, and with lower prices.¹ ITTA supports PRTC's request to avail itself of the regulatory constructs it determines best-suited to its needs. In support of its request, PRTC describes the unique nature of providing service in its territory.² Regulatory flexibility must be promoted in order to enable carriers to maximize operational efficiencies while meeting critical demands arising out of a dynamic telecommunications marketplace.³

Conversion of PRTC's rate-of-return study areas to price-cap regulation implicates the need for waiver of certain Commission rules, since there does not exist a defined methodology for conversion from rate-of-return to price-cap in a post-CALLS⁴ environment. The CALLS proceeding established the existing regulatory framework for price-cap carriers, premised, in part, upon a negotiated industry agreement that included price-cap carrier access reductions of approximately \$2.1 billion and a target interstate access support (IAS) fund of \$650 million.⁵ The Commission concluded tentatively that

¹ Petition at 5.

² Petition at 11, 12.

³ While ITTA supports alternatives to traditional cost-of-service regulation for carriers whose needs are best met by that approach, ITTA notes that rate-of-return regulation has enjoyed enormous success in ensuring reasonable rates for consumers in high-cost-to-serve areas, many of which are subject to strong competitive forces.

⁴ *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service: Sixth Report and Order in CC Dockets No. 96-262 and 94-1, Report and Order in CC Docket No. 94-249, Eleventh Report and Order in CC Docket No. 96-45, FCC 00-193, 15 FCC Rcd 12962, (2000) (CALLS Order), affirmed in part, reversed in part, and remanded in part by Texas Office of Public Utility Counsel v. FCC, 265 F.3d 313 (5th Cir. 2001), on remand, Order on Remand, FCC 03-164, 18 FCC Rcd 14976 (2003).*

⁵ The CALLS plan was crafted to last five years, but the Commission recently directed that it will remain effective until it is replaced. See *Special Access Rates for Price Cap Local Exchange Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for*

entry to the CALLS plan, which “began as a voluntarily negotiated agreement among price-cap carriers and certain IXCs,” was “not designed to be open to new carriers or study areas.”⁶ The Commission emphasized this point when it stated, “[t]hat CALLS was not intended to accommodate additional entry is most clearly indicated by the fact that in adopting the plan, the Commission made no provision for how the universal service component of the CALLS plan would address future expansion to new carriers.”⁷ Commission Rule 47 CFR 61.41(a)(3), however, permits ILECs to elect price-cap regulation. Absent is direction as to how a carrier can elect price-cap regulation in a post-CALLS environment.

PRTC bridges the gap by recommending a course of action that appropriately would provide it with the regulatory flexibility that it needs to respond to marketplace conditions specific to it. PRTC’s proposal relies, in part, on the company’s current access rate structure and waiver of certain Commission rules.⁸ As part of a transition, PRTC’s switched access rates would be reduced.⁹ PRTC’s waiver requests are intended to enable receipt of access-replacement support after it transitions to price-cap regulation. The PRTC request to elect price-cap regulation implies that it also desires to freeze

Interstate Special Access Services: Order and Notice of Proposed Rulemaking, WC Docket No. 05-25, RM-10593, FCC 05-18, 20 FCC Rcd 1994, at para. 2 (2005).

⁶ *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service: Report and Order and Second Further Notice of Proposed Rulemaking*, CC Docket Nos. 00-256, 96-45, FCC 04-31, 19 FCC Rcd 4122, at para. 93 (internal citations omitted) (2004) (*MAG Order*).

⁷ *Id.*

⁸ These include: 47 CFR 61.3(qq)(2) (Petition at 9); 47 CFR 54.901 and 54.903 (Petition 17); and, 47 CFR 54.802-806 (Petition at 18).

⁹ Petition at 8.

separations factors in any of its rate-of-return study areas where it previously had not elected to freeze separations factors. ITTA also supports this implicit request while suggesting the Commission allow rate-of-return companies that have not previously done so the opportunity to freeze separations factors. While many rural rate-of-return companies may not be ready to elect price-cap regulation, allowing them to freeze separations factors would be a step in that direction. This is of particular importance as the Commission is currently considering significant changes to intercarrier compensation rules, as well as potential changes in USF high cost mechanisms. The outcome of these proceedings could have a significant impact on separations.

In sum, ITTA supports PRTC's Petition for regulatory flexibility. Appropriate flexibility enables carriers to structure products and pricing based on market conditions in a manner that maximizes consumer benefits and company needs. A "one-size-fits all" approach to regulation is not viable in a dynamic marketplace, and ITTA, consistent with prior findings,¹⁰ urges the Commission to permit carriers to move forward under the structures most appropriate for each provider.

Certain of ITTA's individual members have, in the past several years, purchased local exchange assets from larger carriers, often in rural markets. ITTA supports adequate flexibility for carriers in order to meet diverse market conditions. In this regard,

¹⁰ See, i.e., *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service; Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation; Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers: Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, FCC 01-304, 16 FCC Rcd 2872, at para 19 (2001) (internal citations omitted) (describing basis for making price-cap regulation optional for most incumbent LECs).*

ITTA supports elimination of the “all-or-nothing” rule;¹¹ moreover, ITTA supports an option of price-cap election on a study-area basis in order to ensure maximum flexibility for carriers. ITTA members have frequently improved service to rural communities by upgrading aging and neglected facilities and introducing new and innovative service offerings. Regulatory flexibility enables carriers to meet competitive demands, and ITTA accordingly supports PRTC’s request for relief that will enable it to respond efficiently to marketplace demands.

Respectfully submitted,

*s/*Joshua Seidemann

Joshua Seidemann

Vice President, Regulatory Affairs

Independent Telephone & Telecommunications Alliance

975 F Street, NW, Suite 550

Washington, DC 20004

202-552-5846

DATED: January 22, 2008

¹¹ See *,i.e., Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service; Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation: Reply Comments of the Independent Telephone and Telecommunications Alliance*, CC Docket Nos. 00-256, 96-45, 98-77 (filed Mar. 18, 2002).