

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

In the Matter of)	
)	
Cost Review Proceeding for Residential and Single-Line Business Subscriber Line Charge (SLC) Caps)	
)	
Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review for Local Exchange Carriers)	CC Docket No. 94-1
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	

ORDER

Adopted: December 5, 2001

Released: December 6, 2001

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On November 20, 2001, the National Association of State Utility Consumer Advocates (NASUCA) requested a limited modification of the Common Carrier Bureau's (Bureau) *Interim Protective Order* in the non-rural universal service support proceeding.¹ Specifically, NASUCA requests access to certain carrier-filed confidential line count information from that universal service proceeding so that it can be used in the Commission's subscriber line charge (SLC) cap cost review proceeding.² We hereby grant NASUCA's request for a limited modification of the *Interim Protective Order*, subject to the conditions described below.

II. BACKGROUND

2. On April 7, 2000, the Bureau released the *Interim Protective Order* in the universal service proceeding to facilitate and expedite review of line count data at the wire center level

¹ See Request of the National Association of State Utility Consumer Advocates for a Limited Modification of Interim Protective Order (IPO), CC Docket Nos. 96-262, 94-1 (filed Nov. 20, 2001) (NASUCA Request). See also *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Interim Protective Order, 15 FCC Rcd 10183 (Comm. Carr. Bur. 2000) (*Interim Protective Order*).

² See NASUCA Request at 2. The SLC cap cost review proceeding was initiated by Public Notice on September 17, 2001. See *Initiation of Cost Review Proceeding for Residential and Single-Line Business Subscriber Line Charge (SLC) Caps*, CC Docket Nos. 96-262 and 94-1, Public Notice, 16 FCC Rcd 16705 (2001).

submitted pursuant to sections 36.611, 36.612, and 54.307 of the Commission's rules.³ The Bureau limited use of the Confidential Line Count Information, defined at paragraph 2.c. of the *Interim Protective Order*, "only for the purpose of reviewing the underlying information and verifying the results of the forward-looking cost mechanism."⁴

3. In its request for limited modification, NASUCA states that it intends to use the Confidential Line Count Information only to produce loop cost studies and to evaluate the data and cost studies submitted by other carriers in the SLC cap cost review proceeding.⁵ Aside from its request for a limited expansion of the permissible uses, NASUCA agrees to comply with all of the *Interim Protective Order's* restrictions on the disclosure of the Confidential Line Count Information. In addition, NASUCA states that, in any filing, it will aggregate line count data to the unbundled network element (UNE) zone level or above, so that no wire center level data will be filed. NASUCA also states that it will request confidential treatment of its filings that rely on Confidential Line Count Information.⁶

III. DISCUSSION

4. Based on the specific circumstances presented here, and subject to the conditions specified by NASUCA, we grant NASUCA's request for a limited modification of the *Interim Protective Order*. The use of Confidential Line Count Information defined in paragraph 11 of the *Interim Protective Order* is expanded in a limited manner to include the purpose of producing loop cost studies and evaluating the data and cost studies submitted by price cap LECs in the SLC cap cost review proceeding in CC Docket Nos. 96-262 and 94-1. All other terms of the *Interim Protective Order*, as well as the conditions proposed by NASUCA and set forth above in paragraph 3 of this order, will apply to use of the Confidential Line Count Information in the SLC cap cost review proceeding by NASUCA or any other party to that proceeding. As required by the *Interim Protective Order*, parties seeking access to the Confidential Line Count Information are required to execute a Declaration agreeing to the terms of the *Interim Protective Order*.⁷ To ensure compliance with the specific conditions required by the instant order for use of Confidential Line Count Information in the SLC cap cost review proceeding, we adopt a modified Declaration, included as Attachment A, which parties must execute and comply with in this proceeding.

5. As stated in the *Interim Protective Order*, several carriers submitting the Confidential Line Count Information have sought confidential treatment of the data pursuant to section 0.459 of the Commission's rules.⁸ The question whether such data should be afforded confidential treatment on a permanent basis is the subject of a pending proceeding before the Commission and

³ See *Interim Protective Order*, 15 FCC Rcd at 10183, para. 1.

⁴ *Interim Protective Order*, 15 FCC Rcd at 10187, para. 11.

⁵ See NASUCA Request at 3.

⁶ *Id.*

⁷ See *Interim Protective Order*, 15 FCC Rcd at 10186, para. 10.

⁸ See *Interim Protective Order*, 15 FCC Rcd at 10183, para. 1. See also 47 C.F.R. § 0.459; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 15 FCC Rcd 8746 (2000). Anchorage Telephone Utility, Bell Atlantic, BellSouth, GTE, SBC (including Ameritech), Sprint and U S West requested confidential treatment of this data.

nothing in this order is intended to prejudge the outcome of that proceeding. The Confidential Line Count Information, as used under the terms of this order in the SLC cap cost review proceeding, shall be subject to the terms of the *Interim Protective Order*, as modified herein, until a final determination by the Commission on the manner in which such information is to be treated. This order does not constitute a resolution of the merits concerning whether any Confidential Line Count Information would be released publicly by the Commission upon a proper request under the Freedom of Information Act or other applicable law or regulation, including section 0.442 of the Commission's rules.⁹

IV. ORDERING CLAUSE

6. Accordingly, pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 303(r), and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, IT IS ORDERED that the Request of the National Association of State Utility Consumer Advocates for a Limited Modification of Interim Protective Order IS GRANTED to the extent stated herein.

FEDERAL COMMUNICATIONS COMMISSION

Dorothy T. Attwood
Chief
Common Carrier Bureau

⁹ 47 C.F.R. § 0.442.

ATTACHMENT A

DECLARATION

In the Matter of Cost Review Proceeding for Residential and Single-Line Business Subscriber Line Charge (SLC) Caps, Access Charge Reform (CC Docket No. 96-262), Price Cap Performance Review for Local Exchange Carriers (CC Docket No. 94-1), and Federal-State Joint Board on Universal Service (CC Docket No. 96-45).

I, _____, hereby declare under penalty of perjury that I have read the Interim Protective Order (DA 00-773) and the subsequent limited modification Order (DA 01-~~XX~~) that have been entered by the Common Carrier Bureau in these dockets, and that I agree to be bound by their terms pertaining to the treatment of Confidential Line Count Information submitted by parties pursuant to sections 36.611, 36.612, and 54.307 of the Commission's rules, 47 C.F.R. §§ 36.611, 36.612, 54.307. I understand that the Confidential Line Count Information shall not be disclosed to anyone except in accordance with the terms of these Orders and shall be used only for purposes specified in these Orders. I acknowledge that a violation of either of these Orders is a violation of an order of the Common Carrier Bureau. I acknowledge that these Orders are also binding agreements with every Submitting Party.

(signed) _____
(printed name) _____
(representing) _____
(title) _____
(employer) _____
(address) _____
(phone) _____
(date) _____