

RECEIVED

MAR 27 1992

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
Tariff Filing Requirements for ) CC Docket No. 92-13  
Interstate Common Carriers )

ORIGINAL  
FILE

COMMENTS OF THE  
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these Comments in response to the Notice of Proposed Rulemaking in the above proceeding ("Notice") (FCC 92-35), released January 28, 1992. The Federal Communications Commission ("Commission") seeks comments on the lawfulness of its forbearance policy, on alternatives to the policy and on how alternatives might be implemented.

NTCA is an association of over 490 small exchange carriers ("ECs") providing telecommunications services to subscribers and interexchange carriers ("IXCs") throughout rural America.

The issue of lawfulness must take into consideration the goals of the Communications Act ("Act").<sup>1</sup> NTCA's comments address its concern over the lawfulness issue as it relates to the Act's goals. The Commission's decision must accomplish the "mandate and fundamental statutory purpose" set out in Section 1 of the Communications Act.<sup>2</sup>

<sup>1</sup> 47 U.S.C. § 151.

<sup>2</sup> See, In the Matter of Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations, Second Report and Order, (Second Report and Order), at 64-65, 91 F.C.C.2d 57 (1982).

No. of Copies rec'd 045  
List A B C D E

The Commission considered the overall impact of forbearance on universal service in establishing its forbearance policy in the Competitive Carrier rulemaking. It should do so in this analysis and review as well. The Notice in this proceeding refers to that rulemaking and correctly focuses on Section 1 of the Act, recognizing that the goals of the Act cannot be frustrated by whatever policy the Commission adopts. The Commission's present forbearance policy is based on the Commission's decision not to apply regulatory regimes that frustrate the overriding goals of the Act. Notice, at para. 4, citing, Second Report and Order, at 64-65.

The cited provision from the Second Report and Order points out that the "mandate and fundamental statutory purpose" of the Act is . . . "to make available . . . to all people of the United States a rapid, efficient Nation-wide and world-wide wire and radio communication service with adequate facilities at reasonable charges. . ." In the Second Report and Order, the Commission stated that it had analyzed its authority in light of this mandate "in the context of the significant technological and regulatory developments in the telecommunications marketplace." The Commission went on to conclude that it had the authority to forbear from using these tools "where their costs outweigh public interest benefits and their indiscriminate application frustrates the fundamental goals of the Act."

NTCA believes that the Commission should adopt measures to assure that the "mandate and fundamental goals" of the Act are

not frustrated regardless of whether it decides to continue its policy of forbearance. In a number of recent proceedings involving the emergence of local competition and the increase of competition in interexchange markets, NTCA has advocated promulgation of a specific rule requiring geographic toll rate averaging of all interexchange carriers.<sup>3</sup> In those proceedings, NTCA made the point that a specific rule is required to assure the continuation of universal service. NTCA wishes to make that point again here because it believes forbearance will lead to permissive deaveraging unless a specific averaging rule is promulgated.

Deaveraging permits IXCs to charge different rates for toll calls of the same distance between different points. Permissive deaveraging would permit disparities in development of a nationwide network and work against accomplishment of the goals of the Act. The promulgation of a rule in this proceeding would go a long way to assure compliance with the mandate of Section 1 of the Act in the context of on-going regulatory changes. It would also have the effect of curbing pricing practices which

---

<sup>3</sup> See, in In the Matter of Competition in the Interexchange Marketplace, CC Docket No. 90-132, NTCA requested that the Commission adopt a rule requiring geographic toll rate averaging of all IXCs. The Commission has not yet ruled on an NTCA Petition for Reconsideration of the agency's order refusing to promulgate a rule for AT&T. See also, Reply Comments of NTCA in CC Docket No. 90-132, filed September 18, 1990; Petition for Reconsideration filed June 7, 1989, in In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313; and Reply Comments of NTCA filed September 20, 1991, in In the Matter of Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141.

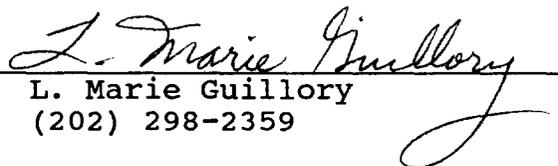
lead to disparate treatment of rural areas. In NTCA's view, the Commission's review of its forbearance policy in this docket should take account of other regulatory developments which may operate in conjunction with Commission decisions here to frustrate the purposes of the Act.<sup>4</sup> These include the Commission's proposed expanded interconnection docket and its expected comprehensive review of the access charge rules in a Federal/State Joint Board docket.

CONCLUSION

For the above stated reasons, NTCA urges the Commission to codify its geographic toll rate averaging policy in the course of this proceeding to assure preservation of universal service goals under whatever tariff filing scheme the Commission adopts.

Respectfully submitted,

NATIONAL TELEPHONE COOPERATIVE  
ASSOCIATION

By:   
L. Marie Guillory  
(202) 298-2359

Its Attorney

2626 Pennsylvania Avenue, N.W.  
Washington, D.C. 20037

March 27, 1992

---

<sup>4</sup> See, e.g., In the Matter of Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141.

CERTIFICATE OF SERVICE

I, Rita H. Bolden, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in CC Docket No. 92-13 was served on this 27th day of March 1992, by first-class, U.S. Mail, postage prepaid, to the following persons listed below:

James D. Schlichting, Chief  
Policy and Program Planning Division  
Federal Communications Commission  
1919 M Street, N.W., Room 544  
Washington, D.C. 20554

Mr. Richard M. Firestone, Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 500  
Washington, D.C. 20554

Downtown Copy Center  
1114 21st Street, N.W.  
Suite 140  
Washington, D.C. 20036

  
\_\_\_\_\_  
Rita H. Bolden