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February 26, 1993

Donna M. Searcy, Secretary
Federal Communications Commission
1919 M Street N.W.
Washington D. C. 20554

Dear Ms. Searcy:

The North Dakota Public Service Commission (NDPSC) respectfully submits the following comments in reply to the Notice of Proposed Rulemaking of the Federal Communications Commission (FCC) released December 29, 1992, in CC Docket No. 92-296 (FCC 92-537).

The NDPSC is responsible for the regulation of companies providing telecommunications services within the state of North Dakota. While the NDPSC has authority to adopt intrastate depreciation accounting that is different from the interstate prescription, the NDPSC relies to a great extent on decisions made by the FCC. For example, the NDPSC approved remaining life and equal life group depreciation methods for U S WEST Communications, Inc. in a rate case proceeding shortly after they were prescribed by the FCC.

The FCC in its notice discussed the relationship between depreciation prescription and the FCC price cap plan for local exchange companies. The price cap plan is an incentive-based system of regulation. Local exchange companies that can control their annual increase in costs of providing service, in their service territory, at a level below the Gross National Product Price Index are rewarded with the ability to retain higher earnings than under rate of return regulation. Also, local exchange companies that can outperform the productivity level established by the FCC are rewarded with the ability to retain higher earnings than under rate of return regulation. Thus, incentives are provided to be more cost efficient and more productive in return for less sharing with customers. The desired result is that both local exchange companies and customers obtain increased benefit as a result of efficiency and productivity.

When local exchange company earnings under FCC price cap reach a certain level, the company shares the returns above that higher level with ratepayers. In order to determine whether those higher levels of earnings have been reached, we assume the FCC relies on an annual rate of return analysis of each local exchange company under the price cap plan.

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Therefore, the proposal for simplified depreciation accounting is directly related to the FCC's annual earnings review of local exchange companies under the price cap plan. Also, therefore, the method chosen for simplified depreciation accounting can affect the threshold for the sharing mechanism under the price cap plan. This sharing mechanism threshold is a significant element of the FCC price cap plan and depreciation is the largest component of total telephone company expense. Safeguards are needed because the local exchange companies have an incentive under price caps to manipulate depreciation expenses and avoid the sharing obligation with ratepayers.

We agree with statements made by Commissioner Duggan in his concurring statement attached to the notice of proposed rulemaking. Determining a precise level of allowable depreciation expense for purposes of the sharing mechanism threshold is essential. However, while the precise level of depreciation expense is critical for determining when a local exchange company is in the sharing zone, the actual depreciation rate chosen by the company to write off its investment raises only a few concerns.

First, it is important that the depreciation rates used by the company, and resulting depreciation reserve, be carefully recorded. This information is necessary for the annual rate of return/sharing mechanism review performed by the FCC for determining the rate of return on net plant investment. Second, the depreciation rates used by telecommunications companies should not fall below the level determined to be appropriate by the FCC, as discussed above, for purposes of the sharing mechanism threshold. If depreciation rates are set too low by the local exchange company, the investment will not be written off over its useful life. The result would be future ratepayers paying costs caused by present ratepayers.

The FCC has also requested comment on the issue of whether industry-wide data should be used to prescribe industry-wide depreciation factors or industry-wide depreciation rates. We believe that, since the price factor plan is administered for local exchange companies individually, the depreciation data and any depreciation factors or depreciation rates should be prescribed and accounted for local exchange companies individually. Prescribing depreciation for local exchange companies individually also recognizes that new technology is not implemented ubiquitously across the states and competition is not emerging ubiquitously across the states.

Thank you for the opportunity to participate in this proceeding.

Sincerely,

Susan E. Wefald
Commissioner

Leo M. Reinbold
President

Bruce Hagen
Commissioner