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RochesterTel

December 15, 1993

BY OVERNIGHT MAIL

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DEC 16 1993
FCC - MAIL ROOM

Re: RM-8388

Dear Mr. Caton:

Enclosed for filing please find an original plus five (5) copies of the Response of Rochester Telephone Corporation to Petition for Notice of Inquiry in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

cc: International Transcription Service

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

In the Matter of Inquiry into Policies and Programs To Assure Universal Telephone Service in a Competitive Market Environment	RM-8388

DEC 16 1993
FCC - MAIL

RESPONSE OF ROCHESTER TELEPHONE CORPORATION TO PETITION FOR NOTICE OF INQUIRY

Rochester Telephone Corporation ("Rochester") submits this response to the petition, filed by MFS Communications Company, Inc. ("MFS"), for a notice of inquiry and en banc hearing regarding the preservation of universal service.[1/] The fundamental premise underlying the petition is that the preservation of universal service -- properly understood -- and competition are compatible. Rochester agrees fully. As the Commission has recognized, local exchange competition is inevitable -- indeed, it exists today.[2/] Thus, this Commission must adjust its regulatory policies to account for this circumstance and, in this light, an evaluation of its universal service policies and objectives is appropriate.

1/ Inquiry into Policies and Programs To Assure Universal Service in a Competitive Market Environment, RM-8388, Petition of MFS Communications Company, Inc. for a Notice of Inquiry and En Banc Hearing (Nov. 1, 1993) ("Petition").

2/ See Transport Rate Structure and Pricing, CC Dkt. 91-213, Report and Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd. 7006, 7007, ¶ 2 (1992).

Rochester also agrees with the subsidiary premises of the petition, namely, that any necessary support payments should be made explicit,[3/] be narrowly tailored and contributed to by all market participants.[4/] Subsidy-laden rate structures are simply not sustainable, especially if borne by only one group of market participants. However, it is likely that some support mechanisms will still be required to assure the preservation of universal service. Thus, these issues present legitimate areas of inquiry.[5/]

Although Rochester supports MFS' request that the Commission initiate the requested inquiry, the Commission should also take into account two considerations: (a) a proper definition of subsidy and the appropriate recipients; and (b) the essential need for prompt reform of the interstate access charge rules.

In its petition, MFS expounds at length on its contention that the amount of the current support mechanisms are

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3/ As MFS acknowledges, certain subsidies are implicit in the generally broad geographic rate averaging and other support mechanisms -- such as carrier common line -- embedded in exchange carriers' rates. Petition at 13-14.

4/ Id. at iii-iv.

5/ Indeed, the Commission has recognized the need for such an inquiry by proposing to examine the operation of the universal service fund. See Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Dkt. 80-256, Notice of Proposed Rulemaking (released Sept. 14, 1993).

tremendously inflated by the exchange carrier industry.[6/] It suggests several means -- such as geographic and income criteria -- for reducing the amount of existing support mechanisms.[7/]

MFS, however, ignores the other side of the coin -- costs, not typically considered subsidies, that exchange carriers must bear solely because of their regulatory status. Unlike their competitors, for example, exchange carriers are subject to expensive and time-consuming regulatory burdens. These include, for example, intricate accounting requirements, tariff filing and review requirements, the necessity for obtaining waivers to offer new services that do not neatly fit into the existing switched access rate categories, reporting requirements and the like. To the extent that these burdens increase exchange carriers' costs in relationship to those of their competitors -- which they undoubtedly do -- these costs may fairly be termed subsidies. Of importance, the existence of these subsidies does not benefit exchange carriers, it directly benefits their competitors.[8/]

6/ Petition at 12-16.

Contrary to MFS' intimations, however, the size of the subsidy burden is not necessarily de minimis. See United States Telephone Association, Potential Impact of Competition on Residential and Rural Telephone Service (July 21, 1993).

7/ Petition at 9-12.

8/ MFS' assumption that existing subsidies benefit only exchange carriers is, therefore, incorrect.

In conducting any inquiry, the Commission must take into account these implicit subsidies as well. If the Commission truly wishes to provide the framework for a competitive telecommunications industry, it must treat all market participants equally. To do otherwise, the Commission will simply draft a set of rules that protects favored competitors.

MFS also implies that support payments should be directed solely to individuals and that exchange carriers, even those that serve high-cost areas, should not receive any support.[9/] This view is overly narrow and short-sighted. Exchange carriers -- particularly small rural carriers, such as several of Rochester's Tier 2 subsidiaries -- provide the infrastructure necessary for universal access to the switched network. These carriers face cost structures that -- without some form of continuing support -- would prevent them from upgrading their networks to ensure universal access to advanced telecommunications capabilities without prohibitive expense to their customers.[10/]

9/ Id. at 9-12.

10/ Although Rochester agrees with MFS that any subsidies should be directed to providing network access, rather than specific advanced services (id. at 8-9), network upgrades to permit such access may well be expensive. Adopting MFS' unduly narrow view of potential support recipients could create a nation of urban telecommunications "haves" and rural telecommunications "have-nots." For obvious reasons, the Commission should not countenance this result.

If the Commission opens the inquiry that MFS requests, it should -- indeed, must -- not permit such an inquiry to delay the rulemaking requested by the United States Telephone Association ("USTA").[11/] As USTA and others have demonstrated, access charge reform -- on an expedited basis -- is essential.[12/] Exchange carriers cannot have their operations governed by an obsolete set of rules to which their competitors are not subject. Moreover, the service baskets/categories that USTA has proposed -- e.g., its public policy basket -- will accommodate any changes in universal service support mechanisms that may result from proceedings that MFS' petition may generate. Interstate access charge reform is long overdue. Although the Commission should initiate the inquiry that MFS requests, it should not permit such an inquiry to derail the rulemaking requested by USTA.

11/ Reform of the Interstate Access Charge Rules, RM-8356, Petition for Rulemaking (Sept. 17, 1993).

12/ See, e.g., Reform of the Interstate Access Charge Rules, RM-8356, Reply Comments of Rochester Telephone Corporation (Nov. 15, 1993).

For the foregoing reasons, the Commission should grant MFS' petition, but should also address the concerns set forth herein.

Respectfully submitted,

Michael J. Shortley, III

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December 15, 1993

(2805K)

Certificate of Service

I hereby certify that, on this 15th day of December, 1993, the foregoing Response of Rochester Telephone Corporation to Petition for Notice of Inquiry was served by first-class mail, postage prepaid, upon:

Andrew D. Lipman
Russell M. Blau
Swidler & Berlin, Chartered
3000 K Street, N.W.
Washington, D.C. 20007

Michael J. Shortley, III