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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Amendment of Part 36 and Part 69 Of the Commission's Rules to Effect Comprehensive Reform of the Access Charge System	RM - 8480 [Report No. 2013]

COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

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July 8, 1994

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Pursuant to Sections 1.405 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedure, 47 C.F.R. §§ 1.405 (1993), the National Association of Regulatory Utility Commissioners ("NARUC") respectfully submits the following comments in response to the FCC's June 8, 1994 Notice seeking statements opposing or supporting the April 15, 1994 petition filed by AD HOC Telecommunications Users Committee ("AD HOC") seeking a notice of proposed rulemaking ("NPRM") to effect comprehensive reform of the access charge system.

I. INTEREST OF NARUC

NARUC is a quasi-governmental nonprofit organization founded in 1889. Its members include the governmental bodies engaged in the regulation of carriers and utilities from all fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands. NARUC's mission is to improve the quality and effectiveness of public utility regulation in America.

NARUC members include State and territorial officials charged with the duty of regulating the communications common carriers operating within their respective borders. These officials have the obligation to assure that communications services and facilities required by the public convenience and necessity are established and that service is furnished at just and reasonable rates.

The AD HOC petition raises for comment issues concerning the Universal Service Fund ("USF") and comprehensive review of methodologies used to separate costs between the intrastate and interstate jurisdictions. It appears the changes proposed by AD HOC would either directly or indirectly increase basic rates to end-users and reduce access charges to interexchange carriers ("IXCs"). Clearly, such a proposal concerns NARUC's membership.

II. BACKGROUND

AD HOC proposes the Part 69 and Part 36 Rules be amended to (1) reform universal service funding, (2) reform the jurisdictional separations procedures, and (3) change access charge allocations.

Specifically, AD HOC would reform US funding by keeping the funding to a minimum, allowing competing access providers to bid for the right to serve "high cost" exchanges, and eliminating IXC funding and instead collecting and distributing funds through a neutral non-service provider party. AD HOC Petition at 7-8.

AD HOC claims that income-based targeted subsidies should, in most cases, be sufficient. AD HOC Petition, Exhibit A at 18.

With respect to jurisdictional separations, AD HOC proposes an interim de-linking of jurisdictional separations from access charge rules and a mechanism (Jurisdictional Transfer Mechanism or "JTM") to transfer the total intrastate results from jurisdictional separations to the States. AD HOC Petition, Exhibit A at 30-33. The AD HOC analysis assumes there is currently an overallocation of costs to interstate services. AD HOC Petition at 10-11. Among the changes that AD HOC would make in access charges is to eliminate the cap on the subscriber line charge.

III. DISCUSSION

Universal service issues, and the related notion of comprehensive review, have been raised in numerous other proceedings pending before the FCC - including the FCC staff paper on access charge reform, the NARUC petition for a NOI concerning access issues, the United States Telephone Association petition for a rulemaking on access charge reform, Ameritech's petition for a declaratory ruling regarding its Customers First Plan, and the Joint Board USF proceedings.

Indeed the current 80-286 Joint Board has been discussing the concept of a comprehensive review of the Commission's rules for almost three years now.

In addition to these FCC proceedings, the Administration, NARUC, and several States are directly examining USF issues. The Administration, through the National Telecommunications and Information Administration ("NTIA"), has stated principles for telecommunications and information policy in "The National Information Infrastructure: The Administration's Agenda for Action" ("NII"). The NII encompasses the goal of continuing and expanding the concept of universal service and NTIA has initiated forums to explore the related issues.

NARUC has also initiated a project, the Universal Service Working Group, to examine the evolving definition of universal service through a collaborative process among representatives of interested parties. In addition, most State policy makers are considering and investigating issues related to universal service within their individual States.

In response to the diverse forums addressing related issues, NARUC has passed a number of resolutions <u>SUGGESTING AN OPEN COLLABORATIVE PROCESS AMONG STATE, FEDERAL, INDUSTRY AND NTIA TO ADDRESS THESE AND OTHER RELATED ISSUES</u>.

NARUC has not taken a position on whether the FCC should issue an NPRM in response to the AD HOC petition. However, as noted <u>supra</u> and in our December 12, 1993 ex parte filings in several related dockets, NARUC does specifically "<u>endorse[] the use of a</u>

collaborative process with the FCC, NTIA, and all interested parties in order to address and refine the concept of and issues relating to universal service." See NARUC's November 1993 Resolution on Recent Initiatives to Consider Universal Service Policies, Appendix A, infra.

Moreover, whatever forum is utilized, any review of USF issues must be comprehensive. NARUC's November 1993 resolution also specifically "supports a comprehensive review of the concept of universal service and issues related to the continuation and expansion of universal service." Id.

The focus of the AD HOC petitions is too limited. AD HOC articulates views as to how universal service should be defined, what specific types of subsidy mechanisms should be adopted to promote those goals, and how the subsidy programs should be funded and administered.

NARUC has identified several issues related to universal service ("US") which AD HOC has not directly addressed. Some of those issues include the following:

- Whether US policies should promote universal affordability of some services and universal availability of other services;
- What measures of universality (e.g., percent of subscribers) should be used to determine whether US policies have been met;
- How privacy issues may affect US policies;
- How US policies should balance costs against economic and social benefits of services; and

- How the various policy makers can best coordinate their efforts in developing and implementing universal service policies, to ensure nationwide implementation while minimizing overlap or duplication of subsidies.

Accordingly, should the FCC issue an NPRM in response to the AD HOC petition, the NPRM should, at a minimum, address all universal service and related issues in lieu of a more limited NPRM that would focus primarily on those issues raised by AD HOC. In addition, we would note, that in previous proceedings, NARUC has customarily taken the position that any rule changes that result in separations impacts must be referred to a joint board for resolution. Although AD HOC claims that the change in separations rules will not change the level of costs attributed to each jurisdiction, it seeks to use the JTM methodology to redress the alleged overallocation of costs to the interstate jurisdiction. Accordingly, it is seeking a revision of the allocation of costs between interstate and intrastate jurisdictions, which raises issues that 47 U.S.C.A. § 410 requires the FCC to refer to a joint board.

IV. CONCLUSION

NARUC recognizes and appreciates the FCC's recent efforts to expedite Federal-State Joint Board actions and the acknowledgment of valid State concerns with respect to access reform contained in the August 1993 cover letter for the FCC Staff access white paper from all three then-serving FCC Commissioners to certain NARUC State commissioner members of the NARUC Communications Committee.

In light of these acknowledged State concerns, we respectfully request that the Commission carefully consider NARUC's positions, as outlined in this and related proceedings, and begin immediately to develop a mechanism for a cooperative approach to address universal service issues. In addition, should the FCC issue an NPRM in response to the AD HOC petition, the NPRM should, at a minimum, be comprehensive and address all universal service issues including those listed supra.

Respectfully submitted,

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APPENDIX A

Resolution on Recent Initiatives to Consider Universal Service Policies

WHEREAS, MFS Communications Company, Inc. (MFS) on November 1, 1993, filed a petition with the Federal Communications Commission (FCC) for a Notice of Inquiry (NOI) and en banc hearing on an accelerated basis to determine future policies for continuing to promote universal telephone service in a competitive market environment; and

WHEREAS, Issues relating to universal service have been raised in other proceedings pending before the FCC including the FCC staff paper on access charge reform, the National Association of Regulatory Utility Commissioners (NARUC) petition for a NOI concerning access issues, the United States Telephone Association (USTA) petition for a rulemaking on access charge reform, Ameritech's petition for a declaratory ruling regarding its Customers First Plan, and revisions to the Universal Service Fund (UHF) before the Joint Board; and

WHEREAS, The Administration through the National Telecommunications and Information Administration (NTIA) has stated principles for telecommunications and information policy in "The National Information Infrastructure: The Administration's Agenda for Action" (NII); and

WHEREAS, The NII encompasses the goal of continuing and expanding the concept of universal service for the next generation and NTIA has initiated forums to explore the issues relating to universal service; and

WHEREAS, The NARUC has initiated a project to examine the evolving definition of universal service through a collaborative process among representatives of interested parties; and

WHEREAS, State policy makers are considering and investigating issues related to universal service within their individual States; and

WHEREAS, MFS' position statement included in its petition articulates its views as to how universal service should be defined, what specific types of subsidy mechanisms should be adopted to promote those goals, and how the subsidy programs should be funded and administered; and

WHEREAS, MFS indicates its position statement is intended as a framework to begin discussion of these issues and fully anticipates other parties will offer divergent views on some issues and identify other issues not addressed in MFS' statement; and

WHEREAS, The NARUC has identified several issues related to universal service which MFS has not addressed, including, but not limited to, the following:

- Whether universal service policies should promote universal affordability of some services and universal availability of other services;

- What measures of universality (e.g., percent of subscribers) should be used to determine whether universal service policies have been met;

- How privacy issues may affect universal service policies;

- How universal service policies should balance costs against economic and social benefits of services; and

- How the various policy makers can best coordinate their efforts in developing and implementing universal service policies, to ensure nationwide implementation while minimizing overlap or duplication of subsidies; now, therefore, be it

RESOLVED, That the National Association of Regulatory Utility Commissioners, convened at its 105th Annual Convention in New York, New York, supports a comprehensive review of the concept of universal service and issues related to the continuation and expansion of universal service; and be it further

RESOLVED, That, should the FCC issue a NOI in response to the MFS petition, the NOI should address all universal service and related issues in lieu of a more limited NOI that would focus primarily on those issues raised by MFS; and be it further

RESOLVED, That the NARUC endorses the use of a collaborative process with the FCC, NTIA, and all interested parties in order to address and refine the concept of and issues relating to universal service; and be it further

RESOLVED, That the NARUC General Counsel and staff shall take appropriate actions in all applicable forums that are necessary to carry out the objectives of this resolution.

Sponsored by the Committee on Communications; Adopted November 17, 1993; Reported NARUC Bulletin, No. 48-1993, pp. 5-7

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CERTIFICATE OF SERVICE

I, JAMES BRADFORD RAMSAY, certify that a copy of the foregoing was sent by first class United States mail, postage prepaid, to all parties on the attached Service List.

James Bradford Ramsay
Deputy Assistant General Counsel

National Association of
Regulatory Utility Commissioners

July 8, 1994

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