

ORIGINAL

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

In the Matter of )  
 )  
Establishment of a Funding )  
Mechanism for Interstate Operator )  
Assistance for the Deaf )

RECEIVED  
MAR 16 1995  
RM-85  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
DOCKET FILE COPY ORIGINAL

AT&T COMMENTS

Pursuant to Section 1.405 of the Commission's Rules, 47 C.F.R. § 1.405, and the Commission's February 14, 1995 Public Notice, AT&T Corp. ("AT&T") submits these comments on the above-captioned rulemaking petition by Southwestern Bell Telephone Company ("Southwestern Bell") to establish a funding mechanism to recover the costs of providing interstate operator services for the deaf ("OSD").

As shown below, there is no basis for the Commission to establish a complex mechanism for shared funding of OSD, modeled on the system for interstate telecommunications relay service ("TRS"), as Southwestern Bell proposes. Unlike TRS, the Americans with Disabilities Act ("ADA")<sup>1</sup> does not mandate that all carriers must provide OSD to their customers, and the traffic volumes and costs of that offering are far more

<sup>1</sup> Pub. Law 101-336, 104 Stat. 327, 366-369, codified at 47 U.S.C. § 225.

No. of Copies rec'd 044  
List ABCDE CCB

modest than those for TRS. In light of these facts, and the substantial potential expense of administering a shared funding mechanism for this service, carriers that choose to provide OSD should bear the costs of that offering.

As Southwestern Bell points out (Pet., pp. 1-2), operator assistance for the deaf provide hearing- and speech-impaired customers who use text telephones ("TTs") the ability to arrange for alternate billing services (i.e., calling card, collect and third-number billed) and other assistance (e.g., credit on interrupted calls) when placing calls to another TT user.<sup>2</sup> Because it is limited to facilitating TT-to-TT communications, OSD stands in marked contrast to TRS, which provides communication between a hearing- or speech-impaired TT user and an individual who does not use such a device, through a communications assistant ("CA") who transliterates conversation from text to voice and vice versa.<sup>3</sup>

---

<sup>2</sup> A TT is defined by the Commission as "[a] machine that employs graphic communication in the transmission of coded signals through a wire or radio communication. TT supersedes the term TDD, or 'telecommunications device for the deaf'." 47 C.F.R. § 64.601(8).

<sup>3</sup> See 47 U.S.C. §225(a)(3); 47 C.F.R. § 64.601(5), (7) (defining TRS). With the advent of TRS, directory assistance to TT users is now provided by AT&T and certain other carriers through that offering, rather than through OSD.

OSD was initially introduced by AT&T in 1980, and following the divestiture of the Bell System AT&T continued to provide OSD on behalf of local exchange carriers ("LECs") for local and intraLATA calling, as well as for AT&T's interLATA calling.<sup>4</sup> AT&T has now requested that it be compensated by the LECs, including Southwestern Bell, for providing OSD on their behalf on an ongoing basis. Southwestern Bell states (Pet., p. 2) that the instant rulemaking petition is the result of this development.

Southwestern Bell requests the Commission to establish an interstate shared funding mechanism for OSD modeled on the shared funding process adopted for TRS.<sup>5</sup> Under this proposed arrangement, a charge would be

---

<sup>4</sup> These services were provided to the Bell Operating Companies ("BOCs") pursuant to Shared Network Facilities Agreements ("SNFAs"), which expired in December, 1992, and to other LECs pursuant to intercarrier contracts. Although AT&T provided OSD for the LECs under these arrangements, the LECs received all of the revenues from that traffic.

<sup>5</sup> See Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, 8 FCC Rcd 1802, 1805-1806 (1993) ("TRS II") (proposing shared funding mechanism for interstate TRS costs); Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, 8 FCC Rcd 5300 (1993) ("TRS III") (adopting shared funding mechanism); Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, 9 FCC Rcd 1637 (1993) ("TRS IV") (adopting payment formula for interstate TRS fund, and reaffirming rulings in TRS III).

assessed on all common carriers offering interstate telecommunications services, proportionate to each carrier's relative share of nationwide interstate Message Telephone Service ("MTS") revenues, and paid to a fund administrator designated by the Commission. Pet., pp. 3-4. Southwestern Bell suggests the National Exchange Carrier Association ("NECA"), which currently administers the TRS fund, as "a logical candidate" to administer the proposed OSD fund. Id., p. 3. The amounts collected by the fund administrator would then be disbursed to defray the costs of providing interstate OSD, although Southwestern Bell's petition does not specify either the eligible recipients or the basis for such payments.<sup>6</sup>

It is neither necessary nor appropriate for the Commission to establish a complex shared funding mechanism to recover interstate OSD costs, as Southwestern Bell proposes here. There are fundamental

---

<sup>6</sup> Under the TRS shared funding mechanism on which Southwestern Bell's proposal is modeled, payments are disbursed by the fund administrator to TRS providers that submit monthly reports of their interstate TRS minutes of use, at a fixed rate per minute established by summing all providers' annual projected TRS costs (plus uncollectibles and fund administration expenses) and dividing that amount by the providers' combined projections of TRS traffic for that year. See 47 C.F.R. § 64.604(c)(4)(iii); TRS III, 8 FCC Rcd at 5304-5305 (¶¶ 23-30); TRS IV, 9 FCC Rcd at 1638 (¶¶ 5, 8).

legal and operational difference between OSD and TRS, for which the Commission has prescribed shared funding. These critical distinctions preclude reliance on the TRS mechanism as a model for funding interstate OSD.

Under the ADA, all common carriers that offer voice communications services are required to furnish TRS throughout their service territories. See 47 U.S.C. § 225(c). In light of this broad and encompassing service obligation, Congress in the ADA also required the Commission to adopt regulations to assure that the costs of interstate TRS "shall be recovered from all subscribers for every interstate service." Id., § 225(d)(3)(B). Acting pursuant to this directive, the Commission has established a shared funding mechanism, under which all interstate carriers contribute to the TRS Fund in proportion to their relative share of gross interstate service revenues.<sup>7</sup>

These regulatory requirements bear no resemblance to the facts regarding OSD. As noted above, unlike with TRS common carriers have no statutory obligation to furnish OSD to their customers, because that offering exclusively provides TT-to-TT communication rather than communication between a TT user and a voice

---

<sup>7</sup> See 47 C.F.R. § 64.604(c)(4)(iii) (prescribing TRS fund contribution process); see also n.5, supra (citing Commission decisions).

customer. Few common carriers have therefore elected to offer OSD to their subscribers.<sup>8</sup> In view of the absence of any broad based service obligation regarding OSD (as well as the limited number of carriers actually offering the service), there can be no justification for compelling "all common carriers offering interstate telecommunications services" to participate in a shared funding mechanism for that offering, as Southwestern Bell requests.<sup>9</sup>

Requiring shared funding of interstate OSD costs is all the more unnecessary in light of the

---

<sup>8</sup> AT&T and the LECs with which it has service arrangements were long the sole providers of this offering. However, according to published reports, in July 1994 MCI also introduced OSD to provide for TT customers calling card and operator services already available to MCI's voice subscribers. See Common Carrier Week, July 11, 1994.

<sup>9</sup> Even if there were any basis for Southwestern Bell's shared funding proposal (and as shown above there is none), there would still be no grounds for Southwestern Bell's additional proposal to base that funding process on common carriers' relative shares of interstate MTS revenues alone, and to exclude LEC interstate access revenues in calculating the funding obligation. Southwestern Bell asserts (p. 4) that "it would be inappropriate" to include LEC access revenues in the cost recovery formula because those charges are recovered by interexchange carriers in their end user rates. This same argument was made and repeatedly rejected by the Commission in its TRS funding opinions. See TRS III, 8 FCC Rcd at 5302 (¶ 13); TRS IV, 9 FCC Rcd at 1639 (¶ 15). Southwestern Bell's attempt to raise this threadbare claim again here further underscores the lack of merit to its shared funding proposal.

extremely limited volumes of OSD traffic that would be addressed by the proposed funding mechanism. Virtually all OSD traffic processed by AT&T on behalf of LECs consists of local or intrastate/intraLATA calling. Less than 2 percent of all such LEC calling represents interstate/intraLATA OSD traffic. The costs associated with this small segment of OSD calling are far lower than those which the Commission has found to warrant shared funding of interstate TRS costs.<sup>10</sup>

Moreover, in all likelihood the costs of administering a shared funding mechanism for interstate OSD would be grossly disproportionate to the limited amount of costs subject to funding. NECA, which has acted as the TRS Fund administrator, has reported \$140,000 in direct administrative expenses in the first year of that fund, as well as \$593,000 in "allocated" costs.<sup>11</sup> More than half (\$301,00) of the latter costs appear to be overhead loadings for NECA's general operations assigned to the TRS Fund by its cost

---

<sup>10</sup> For example, in its first annual filing as TRS Fund administrator NECA estimated the nationwide interstate TRS costs for 1993 at between \$24 million and \$29 million. With allowances for growth in demand, uncollectibles and NECA's administrative expenses, the projected fund size increased to between \$25 million and \$31 million. See TRS IV, 9 FCC Rcd at 1638 (¶ 5).

<sup>11</sup> See Letter dated November 30, 1994 from John A. Ricker, NECA, to William F. Caton, FCC, TRS Fund Notes to Financial Statements, Note 3.

allocation manual. It is reasonable to expect that NECA's proposed costs of administering an OSD fund would be proportionately as large as these TRS fund administration expenses, despite the far smaller absolute size of the OSD fund. In sum, there is no justification for Southwestern Bell's proposal to erect an expensive, complex TRS-like shared funding mechanism for interstate OSD costs.<sup>12</sup>

---

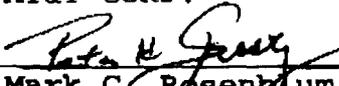
<sup>12</sup> This conclusion should not jeopardize the ability of OSD customers in Southwestern Bell's service area to continue their use of that offering. Southwestern Bell may renew its arrangements with AT&T to provide OSD on its behalf, provided that the parties reach mutually agreeable terms for that continuation. Alternatively, Southwestern Bell can implement arrangements with another OSD service provider, or it can deploy its own equipment and personnel to provide that service. For example, Southwestern Bell already provides TRS service in Kansas; there is no apparent reason that it could not upgrade those facilities to also provide OSD.

WHEREFORE, for the reasons stated above, the Commission should conclude that there is no need to establish a funding mechanism for the costs of providing interstate OSD.

Respectfully submitted

AT&T CORP.

By

  
Mark C. Rosenblum  
Robert J. McKee  
Peter H. Jacoby

Its Attorneys

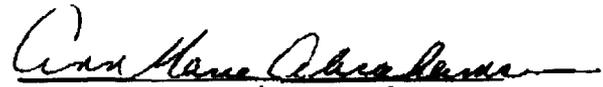
295 North Maple Avenue  
Basking Ridge, New Jersey 07920  
(908) 221-3539

March 16, 1995

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 16th day of March, 1995, a copy of the foregoing "AT&T Comments" was mailed by U.S. first class mail, postage prepaid, to the parties listed below.

Robert M. Lynch  
Richard C. Hartgrove  
J. Paul Walters, Jr.  
Anthony K. Conroy  
Southwestern Bell Telephone Co.  
One Bell Center, Room 3520  
St. Louis, MO 63101

  
Ann Marie Abrahamson