## LIKELIHOOD OF CHANGING BUSINESS TELEPHONE NUMBER FOR COMPARABLE/BETTER SERVICE AND COST BY COMPETITOR

| | TOTAL |
|---|---|
| Unweighted Base | (1332) |
| Weighted Total | (1332) |
| Not Reported | (52) |
| Base: Weighted Answering | (1280) |
| | % |
| VERY/SOMEWHAT LIKELY | 19 |
| VERY LIKELY | 4 |
| SOMEWHAT LIKELY | 15 |
| NOT VERY/NOT AT ALL LIKELY | 81 |
| NOT VERY LIKELY | 33 |
| NOT AT ALL LIKELY | 48 |

EXHIBIT B

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on February 22, 1995

COMMISSIONERS PRESENT:

Harold A. Jerry, Jr., Chairman
Lisa Rosenblum
William D. Cotter
Raymond J. O'Connor
John F. O'Mara

CASE 94-C-0095 - Proceeding on Motion of the Commission to Examine Issues Related to the Continued Provision of Universal Service and to Develop a Framework for the Transition to Competition in the Local Exchange Market

ORDER REQUIRING INTERIM NUMBER PORTABILITY
DIRECTING A STUDY OF THE FEASIBILITY OF
A TRIAL OF TRUE NUMBER PORTABILITY
AND DIRECTING FURTHER COLLABORATION

(Issued and Effective March 8, 1995)

BY THE COMMISSION:

This proceeding was instituted by Commission order issued February 10, 1994,[1] to examine the issues raised by developing competition in the local exchange market. The order provided that the proceeding was to be divided into four issue areas (which have come to be referred to as modules): Universal Service (Module 1), Level Playing Field (Module 2), Regulatory Requirements (Module 3), and Service Quality/Network Infrastructure (Module 4). The order also provided that Commission staff would not be a party to the proceeding, but,

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[1] Case 94-C-0095 - <u>Order Instituting Proceeding</u>, issued February 10, 1994.

instead, serve as facilitators of the process and advisors to the Commission.

Staff has kept the Commission apprised of the substantial progress being made in this complex and multi-faceted proceeding. As the module staffs have gone about their work, collaborating with interested parties, and analyzing comments, it has become apparent that the issues are considerably interrelated. Staff advises that it is developing an approach for presenting these interrelated issues to the Commission shortly.

Three issues, however, because of their direct relationship to Track II of the New York Telephone Incentive Proceeding,[1/] have been presented to the Commission, for earlier action, in advance of the resolution of the other issues in the Competition II Proceeding. They are: number portability, directory listings and publication, and intercarrier compensation.

As discussed more fully below, this proceeding is now ripe for the Commission to adopt an interim number portability plan, as well as to direct the parties to study the feasibility of a trial of true number portability, and report back to the Commission with a plan for such a trial and information about its costs.

As also described in more detail below, after extensive collaboration with the parties, staff has made a number of proposals concerning competing intercarrier interconnection/compensation and directory listings and publication. Some of these proposals have not previously been considered by the parties, and others require input concerning how they may be implemented. We will therefore ask staff to reconvene the parties in order to allow them to discuss and

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[1/] Case 92-C-0665 - Proceeding on Motion of the Commission to Investigate Performance-Based Regulatory Plans for New York Telephone Company.

comment on these proposals, including how they may be implemented.

It should be emphasized that, especially with respect to intercarrier compensation, the outcome of this phase of the proceeding can only be a framework. Possible implementation of recommended noncontributory access rates must, of necessity, await resolution of the issues surrounding the continued provision of universal service. These issues are clearly interdependent.

## SPECIFIC ISSUES

### Number Portability

Number portability will be essential to the transition to a competitive local exchange market. The appropriate technical solution to full number portability will provide an economically efficient and fully functional mechanism to route calls to the appropriate local exchange carrier.

Interim Number Portability: In the period before a final solution to the issue can be implemented, an interim method to provide number portability is necessary. Currently, under the network architecture used by incumbent local exchange carriers, calls are routed to the local switch that originally served the customer. At that point it can be determined whether or not the calls need to be rerouted to another carrier (if the customer switched carriers and retained the original telephone number). Several technical and financial arrangements for the rerouting of calls have been explored during the initial collaborative and comment phase of the Competition II proceeding.

Rochester Telephone, in its recently approved Open Market Plan, has implemented a method that uses the already available "remote call forwarding" capability of its network to reroute calls to the appropriate carrier. The plan also provides for a sharing of the added costs associated with the rerouting.[1]

The Rochester approach strikes a reasonable balance between the utilization of existing technologies and a competitively equitable sharing of costs among the local exchange carriers and it is reasonable and appropriate to apply this interim method on a reciprocal basis. That is, the new entrants should also forward calls to others on the same basis if their customers switch service providers.

Therefore, the Rochester approach (i.e., using remote call forwarding with pro rata sharing of incremental costs), modified to include reciprocal portability among all carriers, is adopted as an interim solution. However, parties are not constrained from exploring other remote call forwarding-like options for interim portability, where, for example, remote call forwarding does not exist or other solutions are technically more desirable.[2]

Technical Trial of Service Provider Portability: As discussed above, the parties involved in Module 2 are in general agreement that it is necessary to have a trial of true number portability. The purpose of the trial would be to examine the viability of a long term data base solution to service provider portability in a multi-carrier environment. Although the parties and staff recognize the need for an integrated, industry-wide

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[1] The added costs relate to the "double routing" of forwarded calls. That is, the call is first routed to the wrong location (the original service switch) and then rerouted to the carrier actually serving the customer. This double routing imposes additional incremental costs on the carrier forwarding the call associated with the additional network usage. Under the Open Market Plan, Rochester would absorb a portion of the costs and all carriers would pay the remainder based on the relative quantity of telephone numbers forwarded to each carrier.

[2] It should be noted that New York Telephone has been negotiating, including number portability arrangements, with new entrants in its service areas. These arrangements may also be acceptable alternatives.

resolution of number portability issues, it is anticipated that a national solution will be slow in coming, while local competition has already begun or is about to be introduced in most of the major metropolitan areas in New York.

Thirteen companies, representing all segments of the telecommunications industry, have been working with staff to establish the framework for, and the technical parameters of, such a trial; some parties, however, are reluctant to proceed further without some indication from the Commission that it supports a number portability trial. Information concerning the costs of the trial will not be available without undertaking additional activities which have been identified by the trial committee (e.g. seeking proposals from vendors and estimating network rearrangement costs). New York Telephone and Rochester Telephone Corporation are therefore directed, and other interested parties authorized, to study the feasibility of a number portability trial, and report back to the Commission with the relevant information, including the parameters and costs of a trial.

Directory Listings

Pursuant to regulation, local exchange companies are required to publish "white page" directory listings of the telephone numbers of the telephone subscribers in their service territories. Directory publishing has been recognized by the Commission as an essential telephone-related service, integral to the efficient use of telecommunications services. It is also a profit-making operation for the incumbent local exchange companies (LECs), derived primarily from the sale of "yellow pages" advertising, which is generally distributed along with the white page listings, and which is an advertising source highly regarded by businesses. A question posed in this proceeding was how and by whom telephone directories should be provided.

Staff concluded that little purpose would be served by requiring new entrants to publish their own directories, particularly in view of the limited number of customers most new entrants would initially have. Requiring the incumbents to publish new entrant listings raised a number of issues which were addressed by the parties involved in this module. Among them were whether fees could be charged by the incumbents for this activity, and whether new entrants were entitled to a share of the profits from the sale of new entrant listings to third parties.

In general, the incumbent LEC parties believed that they were entitled to compensation for including new entrant listings in their directories and distributing them. On the other hand, the new entrants did not want to compensate the incumbents for adding their listings to the incumbent directories, but they did want to share in the yellow page revenues derived by the incumbents.

The inclusion of new entrant listings in incumbent directories enhances the value of the incumbent directories. This enhanced value, with its consequently increased yellow pages revenues, which would be retained by the incumbents, should fairly compensate the incumbents for any costs of including the new entrant listings in their directories and providing copies to the new entrants for their customers' use. New entrants receive the value of a comprehensive directory, without charge. Any additional revenues related to the sale of directory listings to third parties should be shared between the new entrant and incumbent (staff has recommended this be based on a pro rata share of revenues).

This resolution is equitable during the transitional period, and will be tentatively adopted, although, if parties can arrive at mutually satisfactory alternative arrangement, they will be allowed to negotiate other terms. Because this solution has not been specifically addressed by the parties, the parties will be afforded a further opportunity for discussion directed at the Commission's tentative determination when staff reconvenes discussions.

Intercarrier Interconnection/Compensation

There are several issues that need to be resolved in order to define and implement the technical and financial arrangements between competing local exchange companies necessary to ensure effective competition. As noted above, each of these issues areas has been subject to an initial collaborative and comment process. The remainder of this discussion identifies those facets of each issue that need further resolution and sets forth tentative recommendations to be subject to a further abbreviated collaborative process for the purpose of final resolution.

It must be noted that the interconnection/compensation issues identified here are those primarily related to the interchange of traffic among the competing providers of local exchange service. These issues exclude those related to the use of incumbent carrier facilities, such as attachment by others to the existing utility poles. Pole attachment issues, especially as they relate to the Cable TV companies, are an important facet of the emerging competitive industry structure. However, these issues are broader in scope than the traffic interchange issues addressed herein, and involve all Cable TV companies, whether or not they intend to provide competitive telecommunications services, as well as the electric utilities who own a significant portion of the utility poles. Accordingly, pole attachment issues will be addressed separately.

Fundamental Principles: Staff has reported that the following basic principles have been developed during the initial collaborative phase of this proceeding, and have either been endorsed or have not been opposed by the parties:

- Customers must be able to call all valid telephone numbers
- Traffic and information between local exchange carriers must be exchanged

- Local exchange carriers are entitled to compensation for the costs of the traffic and services provided to each other
- Compensation charges and rates should be cost-based, uniform, and non-discriminatory, and encourage long-term efficiency

These fundamental principles have governed the development of the staff framework which we tentatively endorse, outlined below, for the intercarrier compensation arrangements between competing local exchange carriers.

Definition of Local Traffic: The arrangements, both interconnection and compensation, for the exchange of local traffic require a definition of the scope of traffic eligible to be exchanged under these arrangements. This definition is especially significant to the compensation arrangements applicable to the exchange of local traffic.

Currently, as has been the case historically, the rates for usage services (e.g., toll and local calling) provide contribution toward covering the cost of basic network access service provided to customers by local exchange telephone companies. The longer distance toll services provide a greater contribution (on a per minute basis) than shorter distance toll, and local calling provides the least. This difference in contribution levels is reflected in the differences in the price levels of the carrier access charges assessed by local exchange carriers to interexchange carriers for their use of the local network in the provision of toll services. There are three sets of carrier access charges applicable to the use of the local exchange network by other carriers - - interstate access (for calls between the states), intrastate interLATA access (for calls between the LATAs in New York State), and intrastate intraLATA access (for calls originating and terminating within the same LATA). Thus, the charges assessed by local exchange carriers for the use of their networks to originate or terminate calls is, in part, dependent on where the call was originated (or where the call is destined to be terminated).

At issue in the Competition II proceeding is whether this approach should be continued for the exchange of local traffic among local exchange carriers, which would limit the compensation arrangements to traffic that is originated and terminated within predefined "local" calling areas, or whether a different arrangement should be implemented for local carriers wherein compensation would not be dependent upon where calls are originated and terminated.

In order to maintain competitive equity among not only the local exchange carriers, but also competitive equity between the local exchange carriers and the interexchange carriers, staff has proposed a framework that would establish a separate (and new) set of charges for the exchange of local traffic (which would be applicable to all carriers, both local exchange and interexchange carriers, for the origination and termination of local traffic) and continue the current applicability of existing carrier access charges for the origination and termination of non-local traffic.

For the purpose of implementing the local traffic interconnection and compensation arrangements, local calling areas would be defined as the flat rate or Band A calling areas (intraregion calling in the downstate LATA) as are delineated in the existing incumbent local exchange company tariffs.[1/] This definition would be compatible with the existing division between the local and toll (interregional calling in the downstate LATA) markets, and would maintain a level playing field among the exchange and interexchange carriers for competition in each of these markets.

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[1/] This definition is intended for the purpose of implementing the compensation arrangements between the local service carriers and is not intended to limit or otherwise define the local calling areas that new entrants may offer to their customers.

This framework is proposed for consideration by the parties concerning the viability of this approach for the interchange of traffic among competing local exchange carriers. If necessary, the parties may explore appropriate alternatives that would meet identified special needs of local exchange carriers while preserving the competitive equity between local exchange carriers and interexchange carriers.

Compensation Arrangements: The approach that was developed by staff during the initial collaborative and comment phase of this proceeding is to implement cost based tariffed charges that each local exchange carrier would assess other local exchange carriers for the termination of local calls on its network. Specifically, it is proposed that:

- Tariffs be filed for the exchange of local traffic at established "Meet Points"[1]
- The tariff rates be established at incremental costs
- Rates be symmetrically applicable among local exchange carriers for interchanged traffic at meet points
- Carriers using alternative interconnection arrangements provided by another carrier offer equivalent forms of interconnection to the other carrier[2]
- New entrants and small incumbent carriers be allowed to avoid filing cost studies as long as the rates they charge are no more than those of the largest local exchange carrier serving the LATA
- Flat rate (i.e., unmeasured) options be offered as an alternative to measured rate (e.g., per minute) tariffs

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[1] The concept of a common "Meet Point" at tandem facilities is addressed in the following section on Interconnection Requirements.

[2] For example, a local exchange carrier using a collocation arrangement to interconnect directly to a local switching location of another carrier would be required to offer an equivalent interconnection arrangement to the other carrier.

The primary intent of the above local compensation framework is to implement a competitively equitable and economically efficient means to exchange traffic among local service providers serving a common local area. The incremental cost standard is a fundamental component of the economic efficiency objective.

Incremental cost based local compensation charges would, however, not provide for any contribution flows among the local service providers that might be found necessary in order to promote and protect universal service. The need for such contribution and the procedures for its collection and distribution will be addressed as a separate matter in other phases of the Competition II proceeding. The ultimate resolution of the universal service issues may result in the establishment of additional contributory rate elements for the interchange of local traffic that would result in carrier compensation charges above incremental costs.

In the additional collaborative phase of this proceeding, the parties should address the above framework for compensation arrangements and develop the specifics necessary for its implementation. It must be emphasized, as stated above, that universal service issues will be addressed as a separate matter and that the resolution of those issues may well affect the compensation arrangements ultimately adopted.

Interconnection Requirements: In recognition of the continuing changes in technology and the continuing evolution of service offerings and associated technical interconnection and intercompany administrative requirements, staff has concluded, that:

- The Commission's existing Open Network Architecture (ONA) rules are adequate to provide the necessary interconnections among competitors and incumbent local service providers.
- Cooperative practices among the providers of local service should be encouraged and closely monitored.

- Shared use of bottleneck facilities is essential, and the terms of such arrangements should balance the impact on competitive entry, fairness to incumbents, and impact on customers.

In addition to these tenets and the general approach of addressing specific interconnection issues on a case by case basis as competition and technology evolves, staff has recommended that, as an initial measure to ensure the effective interconnection of local service providers, the incumbent local exchange companies should make available a common interconnection "meet point" in their local service areas, at their tandem switching locations (or the equivalent thereof), for the interconnection of new entrants with the incumbents,[1] as well as interconnection among the new entrants themselves. This interconnection approach is tentatively adopted, pending consideration of the results of the forthcoming collaborative discussions.

Customer Access to IXCs and Carrier Access Charges: The major focus of the local carrier interconnection/compensation issue is directed to exchange of local traffic among the local service providers, but new entrants will also need to provide their customers with access to interexchange carriers as well as provide interexchange carriers with access to their customers. While new entrants may provide this access between their customers and interexchange carriers as a result of competitive market forces, it is appropriate to establish requirements for such access in order to ensure its availability. Specifically, it is tentatively concluded that new entrants:

- Provide access to interexchange carriers on a non-discriminatory and equal basis
- Comply with Commission rules and regulations governing customer access and presubscription to interexchange carrier services

[1] Including the incumbent operating the tandem and any incumbents connected to that tandem.

- o File tariffs specifying the rates, terms, and conditions for carrier access to their networks and customers
- o Be allowed to avoid filing cost studies as long as the rates for carrier access are no more than those of the largest local exchange carrier serving the LATA

Parties are invited to address the need for and adequacy of the above requirements in the course of their additional discussions.

Carrier Eligibility: The interconnection/compensation criteria described above would be applicable only to carriers providing local exchange service and meeting the Commission's requirements for the provision of local exchange service. For the purpose of determining which carriers would be eligible to receive compensation, staff has developed the following minimum eligibility requirements:[1/]

- o Certification as a telephone corporation authorized to provide local exchange service in the state
- o Allocation of an NXX code for that purpose
- o The provision of local dial tone to customers

The intent of the eligibility definition, which the Commission tentatively adopts, is to distinguish bona fide providers of local dial tone service to the public from customers and other service providers. Interested parties should consider

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[1/] Additional regulatory requirements for local exchange carriers are under consideration in other Modules of the Competition II proceeding. These requirements, addressing service quality, customer service, reporting and accounting, and universal service obligations will be forwarded to the Commission in the near future. While the scope of these requirements will impact the new entrants and their ultimate eligibility to participate in the interconnection/compensation arrangements addressed herein, they need not be resolved in advance of establishing the interconnection/compensation arrangements.

the forthcoming discussions as their opportunity to address these proposed eligibility requirements.

<u>Imputation</u>: The charges assessed by the incumbent local exchange carrier to new entrants for the termination of local calls represents a significant portion of the new entrants' cost of providing local calling services to their customers and a significant factor in their ability to compete with the local calling services offered by the incumbent local exchange carrier. In order to preserve competitive equity, incumbent carriers will be required to meet an "imputation" test for the local usage rates that they offer to their customers. Staff has proposed the imputation test included in the proposed Track 2 Settlement, which is built upon the imputation standard determined by the Commission in Case 28425 - Intrastate Toll and Carrier Access. Generally, it would require that an incumbent's local usage rates equal or exceed the rates charged to competitors for the bottleneck interconnection elements provided to competitors. For local usage this would include the rates for local call origination and termination plus the incumbent's incremental cost of the remaining portion of its local calling service. The staff approach would recognize that not all the elements that a competitor needs for access to the incumbent's network may be needed for the incumbent's provision of local calling to its own customers and would allow the incumbent to reflect any internal efficiencies in the imputation test.[1/]

The acceptability of this approach to an imputation test will be resolved when the Commission considers the Track 2

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[1/] For example, while virtually all calls between an incumbent and a competitor would require transport from the incumbent network to the competitor network, calls between the incumbent's own customers may not. Some calls are originated and terminated in the serving switch and require no transport at all, some are directly routed to a terminating switch, and some require more extensive transport similar to the exchange of traffic between the competitor and the incumbent. The proposed imputation test would allow the incumbent to reflect those efficiencies inherent in its network configuration.

settlement. In this proceeding, however, parties should resolve the mechanics of its possible implementation in the further collaborative phase.

Impact on Existing EAS Arrangements Between Local Companies: Currently, local exchange telephone companies providing service within a common local calling area exchange local traffic in accordance with Extended Area Service (EAS) agreements. None of these agreements provide for charges to terminate local traffic; in essence, each carrier terminates the other's local traffic at no charge. Also, many of these agreements provide for settlement payments to the smaller local exchange companies. The Commission, in past successive actions, has not allowed EAS settlements for new local routes, has frozen the existing settlement payments, and slated the settlements for gradual phaseout. Most parties to the Competition II proceeding agree that the EAS arrangements need to be revised in order to create a viable and competitively equitable structure for the future, and favor the phase out of existing EAS settlements and their replacement with compensation arrangements equivalent to those applicable between incumbents and new entrants.

The treatment of EAS settlements is intertwined with the overall universal service protection and funding approach under separate consideration in this proceeding. While we believe that the EAS issue needs to be resolved, we see no need to address the EAS arrangements at this juncture; they will be addressed in conjunction with consideration of the universal service issues.

## CONCLUSION

The three issues considered here were linked to Track 2 of Case 92-C-0665 by the parties to that proceeding, and their resolution is necessary to coordinate issue resolution with that proceeding. Most of the remaining issues in this proceeding have shown themselves to be, as discussed earlier, more interrelated than was previously believed to be the case.

To this point, staff and the parties have developed these issues in discrete issue areas or modules. The four-module construct has proven quite useful, and the module groups have coordinated successfully thus far, but now, closer to the decisional stage, it may become useful to view the issues from a broader perspective.

The Commission has frequently expressed its fundamental goals: the encouragement of competition and the preservation of universal service. It is clear that certain cost shifts which may be necessary to foster competition may also influence universal service goals. The interests of incumbent providers, competitive entrants, and customers (which may sometimes include service providers) will necessarily affect each other. In considering the remainder of Competition II, the Commission will be seeking guidance from the parties as to how best to reflect this interrelationship in the regulatory framework that is adopted.

The Commission orders:

1. New York Telephone Company and Rochester Telephone Corporation are directed, and other parties interested in the number portability issues in this proceeding are authorized, to work with Commission staff to study the feasibility of the conduct of a trial of true number portability using data base technology to begin on or around February 1, 1996, as described in the text of this order. The feasibility study should include, but is not limited to, a description of the parameters of such a technical trial of service provider portability, the participants in such a trial, and any costs to participate in such a trial to be borne by regulated utilities. Not later than 150 days from the date of this order, staff is directed to report back to the Commission with the results of the feasibility study and a recommendation as to whether or not the trial should go forward.

2. In the interim period, during which true number portability is not available, incumbent local exchange companies

and any other telecommunications providers who offer local exchange service to residential or business customers are directed to provide interim number portability using remote call forwarding or other similar technology, as described in the body of this order.

3. Staff is directed to reconvene the parties to this proceeding to consider the matters discussed in this order with respect to directory listings and publication and intercarrier connection and compensation. The results of these collaborative discussions should be reported back to the Commission at its April 19 session.

4. This proceeding is continued.

By the Commission,

(SIGNED)

John J. Kelliher
Secretary

## CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of September 1995, copies of Comments of MFS Communications Company, Inc. were served by hand delivery on the following:

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