

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of the Commission's)
Rules and Policies to Increase)
Subscribership and Usage of the)
Public Switched Network)

CC: Docket No. 95-115

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COMMENTS OF TIME WARNER COMMUNICATIONS HOLDINGS, INC.

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SUMMARY

Time Warner applauds the Commission's attempt to target and remedy many of the obstacles currently precluding telephone subscribership levels from reaching 100%. By implementing support mechanisms that will target low-income and minority households, the Commission's universal service goals will be more readily achieved. However, to realize this goal the Commission must change its perspective on universal service from that of a historical broad-based approach to that of a more narrowly tailored approach that focuses on targeted needs.

In order to target low-income households, the Commission must implement flexible alternatives, such as long-distance blocking, reduced connection charges and deposit requirements. Requiring LECs to offer alternative services will result in more affordable telephone connection and services for those low-income households that currently are unable to maintain a connection to the network. Such economic incentives will ultimately result in increased subscribership.

The Commission's attempt to extend Lifeline programs to schools and libraries is well intended - but premature. Competition will encourage low-cost access to educational institutions; thus regulatory mandates are only necessary where the marketplace fails. If, however, the Commission decides to implement a mandatory Lifeline program it should not transform the present program in order to accommodate these institutions. Rather, a new and distinct program should be tailored to fit the specific needs and requirements of these entities.

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COMMENTS OF TIME WARNER COMMUNICATIONS HOLDINGS, INC.

I. Introduction

Time Warner Communications Holdings, Inc.¹ ("TW Comm") hereby files its comments in response to the Commission's Notice of Proposed Rulemaking in the above referenced proceeding, released July 20, 1995.² In the Notice, the Commission enumerated several proposals to increase subscribership and usage of the public switched network. TW Comm applauds the approach the Commission adopted in the Notice: to identify problem areas and offer narrow, targeted solutions. The state and federal policies implemented to achieve universal service in the past have been largely successful. In fact, overall, the goal of universal service has been achieved. However, certain segments of the population, in particular low-income and minority households, appear to have subscribership

¹ Time Warner Holdings, Inc. is a wholly-owned subsidiary of the Time Warner Entertainment Company, L.P.

² Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network, Notice of Proposed Rulemaking, CC Docket No. 95-115 (released July 20, 1995) ("Notice").

levels well below the national average.³ The Commission must change its perspective and move away from the historical broad-based universal service programs towards an approach that focuses on targeted needs. Targeted support mechanisms will achieve universal service goals more efficiently and effectively than the continued application of broad-based support policies. The Commission proposed such an approach in the instant proceeding.⁴

As an emerging provider of basic residential services, TW Comm is very interested in the Commission's universal service policies. TW Comm already offers residential services in Rochester, New York, and will soon be expanding such service offerings to portions of New York City. In addition, TW Comm is authorized to provide local exchange services in Ohio and Tennessee, and plans to seek comparable authority in other states that permit local competition. As a new competitive provider of local telephone service, TW Comm is committed to supporting and expanding the availability of affordable universal service in all parts of the nation to all citizens. The presence of competition in the local telephone market is fully consistent with this long-standing national policy goal. By expanding the scope of available services and capabilities and by improving the overall efficiency with which such services are provided to the public, the introduction of competition into the local telecommunications market will make

³ Notice, para. 1.

⁴ TW Comm's comprehensive approach to universal service will be addressed in its comments on the Commission's NPRM in Docket No. 80-286, due October 10, 1995.

significant contributions to assure that telephone service is affordable and to maximize the general availability of advanced telecommunications services to all communities. TW Comm will offer basic exchange services to all customers within its serving area, and is prepared to accept willingly its share of universal service obligations. In addition, TW Comm stands ready to work with state/federal regulators and other industry participants to develop and implement universal service programs designed to increase subscribership levels among low-income and minority segments of the population.

II. Proposals to Increase Subscribership

A. Disconnection Related to Failure to Pay Interstate Long-Distance Charges

Based on its analysis of applicable data and relevant studies, the Commission reached the following conclusions in the Notice: (1) the “inability to control long-distance usage [is] a major cause of disconnection of telephone service”⁵ and, (2) “once subscribers have been disconnected, installation charges may create a significant barrier to reconnection.”⁶

⁵ Notice at para. 10.

⁶ Id. at para. 22.

1. **Call Control Services**

a. **Voluntary Long-Distance Blocking Services**

TW Comm agrees with the Commission's conclusion that voluntary toll restriction may be an effective method of improving subscribership levels. While TW Comm is unable to allocate costs to such blocking with any specificity, a reasonably priced service should be possible considering today's switching technology.

The Commission has the authority to require LECs to offer subscriber blocking of interstate long-distance services. The Commission's statutory authority to require LECs to offer long-distance blocking to subscribers is rooted in Title I of the Communications Act of 1934 ("Act"), the title that enables the Commission to regulate "all interstate and foreign communication by wire . . .,"⁷ including all "instrumentalities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission."⁸ The Commission's authority to regulate the transmission of interstate communications includes the authority to regulate the receipt of that transmission.

Moreover, both Commission and Supreme Court precedent establish that Section 152(a) of the Act is a substantive grant of jurisdiction and "not merely

⁷ 47 U.S.C. 152(a) (1988).

⁸ 47 U.S.C. 153(a) (1988).

a description of the forms of communication to which the Act's other provisions governing common carriers (Title II) and broadcasters (Title III) apply."⁹ The Commission asserted its authority to require LECs to offer subscriber blocking of certain interstate long-distance services when it required LECs to offer subscribers a service to block all interstate 900 telecommunication services.¹⁰ The rationale the Commission relied on in its 900 Blocking Order is transferable to issues addressed in this NPRM. Specifically, in the 900 Blocking Order, the Commission determined that permitting LECs to block all interstate 900 telecommunications services would provide consumers with greater control over the use of telecommunications services, as well as to protect the consumer from unreasonable charges that may be incurred each month, charges that many may not be able to pay.

Thus, it is well settled that the Commission may assert its Title I authority over activities not within the reach of Title II of the Act, if it is necessary to achieve its statutory responsibilities such as universal service.¹¹

⁹ See Public Service Commission of Maryland, Memorandum Opinion and Order, 4 FCC Rcd 4000, para. 38 (1989) (citing United States v. Southwestern Cable Co., 392 U.S. 157 (1968)).

¹⁰ Policies and Rules Concerning Interstate 900 Telecommunications Services, Report and Order, 6 FCC Rcd 6166 (1991) ("900 Blocking Order").

¹¹ Public Service Commission of Maryland at para. 38.

b. Other Long-Distance Restriction Services

The Commission should not require local service providers to offer services that restrict usage to certain levels. These types of services are likely to be more expensive to provide and administer than subscriber blocking of interstate long-distance services. In addition, the capability to offer such services may vary by switching technology and billing systems. The following practical limitations must be considered: how customers will track their usage to determine when they are near their allotted limit; and, how the service provider will react when usage is exhausted in the middle of a long-distance call. Despite the above limitations, long-distance carriers may decide to offer discrete packages of limited usage, including the use of debit cards. The Commission should encourage offerings that restrict usage to certain levels and encourage (but not require) long-distance carriers to work together with local exchange carriers to explore the feasibility of such offerings.

2. Assistance With Connection Charges and Deposits

The Commission also proposes to adjust deposit requirements for low-income subscribers that agree to accept voluntary toll restriction.¹² TW Comm notes that New York State prohibits the collection of a deposit for long-distance service regardless of whether the service is restricted. This policy provides no protection for long-distance carriers from the considerable losses that often occur in just one or two months. TW Comm supports the Commission's proposal that links

¹² Notice at para. 26.

reduced deposit requirements with voluntary toll restriction. In addition, however, carriers should be provided with the flexibility required to determine the need for an additional deposit once a subscriber decides to remove the blocking restriction. If a provider removes blocking after providing service for only a few months, or removes blocking for a customer with a history of frequent delinquent payments, the situation may warrant an additional deposit. However, if a customer made timely payments for local services for an extended period of time, a carrier may determine that the removal of long-distance blocking does not represent a risk warranting further deposit.

3. Disconnection Restrictions

The Commission also seeks comment on prohibiting carriers from disconnecting basic local exchange service for non-payment of interstate long-distance service. The Commission cited to data from Pennsylvania, where the Pennsylvania Public Utilities Commission implemented such a policy, that demonstrates an increase in subscribership after its implementation¹³ and the Commission also referred to evidence that Pennsylvania has one the highest levels of subscribership among all the states.¹⁴ The Commission noted that thus far, ten other states also adopted such a policy. This evidence appears to support a conclusion that a policy similar to the policy implemented in Pennsylvania will

¹³ Id. at paras. 29-30.

¹⁴ Id.

increase telephone subscribership levels. Since universal service policy is designed to maintain basic connectivity to the public switched network, a disconnect policy should differentiate between essential and discretionary services and not allow the disconnection of the essential service for non-payment of a discretionary service. TW Comm supports such a policy.

The Commission possesses the requisite authority to regulate local service disconnection for non-payment of long-distance charges. In Public Service Commission of Maryland,¹⁵ the Commission addressed this issue directly and concluded that it possessed the statutory authority necessary to preempt state regulation of the terms and conditions under which disconnection for non-payment would be allowed to take place. The Commission relied on the fact that it is not possible to separate the interstate and intrastate components of the billing and collection process performed by LECs for interstate carriers.¹⁶ Thus, established Commission precedent appropriately concludes that the Commission possesses the authority to regulate local service disconnection for non-payment of long-distance charges.

¹⁵ 4 FCC Rcd 4000, para. 47 (1989).

¹⁶ Id.

4. Lifeline Assistance

The Commission has suggested extension of the Lifeline program to certain entities, such as schools and libraries.¹⁷ Although TW Comm supports the concept of providing low-cost access lines to schools and libraries, it would be premature for the FCC to mandate such requirements. If low-cost access lines to schools and libraries are viewed as essential for the realization of universal service opportunities, the government should only establish regulatory mandates where the marketplace fails. In a competitive local exchange market, there are excellent corporate citizenship reasons, as well as marketing reasons, for a local service provider to offer low-cost access lines to schools and libraries without being required to do so by a regulator. At the very least, local service providers should be provided with an opportunity to explore the available options with schools and libraries before being mandated to do so.¹⁸

If, however, the Commission concludes that it will implement a mandatory program to provide low-cost access lines to schools and libraries, it should not do so by expanding the scope of the current Lifeline program to include

¹⁷ Id. at para. 36.

¹⁸ The availability of low-cost telecommunications service or advanced services to schools and libraries does not by itself assure that these institutions will be better equipped to fulfill their principle mission. It does not obviate the more fundamental need for a general overhaul of curriculum and education delivery systems. It is essential that funding for schools be compatible with the technology deployed so that teachers and students can take advantage of existing and new services to further academic goals.

these institutions. Lifeline eligibility is designed specifically for low income and disabled residential customers in order to provide low-cost access to telephone service and applies specifically to residential service. A program to provide low-cost telephone access to learning institutions will necessarily have a different set of eligibility requirements and administrative needs than the Lifeline program and thus has a more logical tie to the offering of a business class of service. The creation of two discrete programs differentiating between the needs of a residential customer and the support required for education will simplify a local service provider's administration of such programs. Therefore, the Commission should avoid transforming the Lifeline program into a "one size fits all" program. In addition, before it extends a program similar to the Lifeline program to schools and libraries, the Commission must clearly define the terms "school" and "library". Schools vary widely, ranging from public to private and from small "mom-and-pop" pre-schools to huge universities with branch campuses. Libraries also vary significantly, ranging from public to private and from libraries in very small towns to the large regional library systems. TW Comm recommends that the Commission limit the scope of any program implemented to provide low-cost telephone access lines to accredited public and private institutions of learning and to libraries accessible by individual members of the general public. The low-cost access lines should be used exclusively to allow the instructor or student to access, directly from a scholastically supervised classroom or library, content, data, video, bulletin-boards, or other types of materials that support, enhance and add value to

the legitimate educational process. The availability of such access lines should not include access lines used for general administration, student housing, faculty offices, or any other use that does not directly support education. The inherent difficulty in making distinctions of this type underscores the need for caution in creating such new classes of subsidized users.

B. Services Targeted for Low-Income Populations that are Highly Mobile

Finally, the Commission seeks comment on services that can be targeted to low-income, highly-mobile populations.¹⁹ As a provider of local telephone service, TW Comm intends to offer a full range of services, including a stand-alone voice mail service for approximately \$4-\$5 per month. This service will offer a low-cost tool for highly-mobile individuals with many of the benefits of telephone service. In addition, TW Comm is currently investigating the development of high-volume, centralized message centers and pre-paid debit cards that may also meet the needs of this segment of the population. Some of these services are already being offered and are likely to be highly competitive if competition is allowed to flourish in the local telecommunications market. As noted in Section I, the best way to assure delivery of a wide range of services and capabilities is through robust competition. The Commission should consider mandating such services only if the competitive process fails to do so.

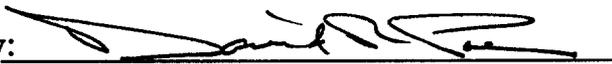
¹⁹ Notice, paras. 37-39.

III. Conclusion

As described herein, TW Comm generally supports the measures that the Commission is proposing to increase subscribership and usage on switched networks. However, TW Comm urges the Commission to mandate services or service requirements only where a competitive market fails to do so.

Respectfully submitted,

**TIME WARNER COMMUNICATIONS
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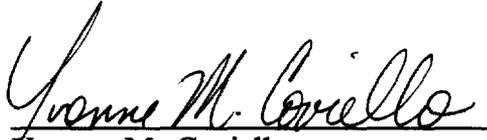
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September 27, 1995

CERTIFICATE OF SERVICE

I, Yvonne M. Coviello, hereby certify that on this 27th day of September, a true copy of the foregoing Comment filed by Time Warner Communications Holdings, Inc., was sent via First Class Mail, Postage Prepaid, or Hand Delivered, upon each of the parties listed.


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