



General Services Administration
Office of General Counsel
Washington, DC 20405

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

May 3, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Subject: Policy and Rules Concerning the Interstate, Interexchange
Marketplace; Implementation of Section 254(g) of the
Communications Act of 1934, as amended; CC Docket No. 96-61

Dear Mr. Caton:

Enclosed please find the original and eleven copies of the General Services Administration's Reply Comments for filing in the above-referenced proceeding. Copies of this filing have been served on all interested parties.

Sincerely,

Michael J. Ettner
Senior Assistant General Counsel
Personal Property Division

Enclosures

cc: International Transcription Service
Janice Myles (Diskette)

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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MAY 3 1996

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

In the Matter of)
)
)

Policy and Rules Concerning the)
Interstate, Interexchange Marketplace)
)

Implementation of Section 245(g) of the)
Communications Act of 1934, as amended)
_____)

CC Docket No. 96-61

**REPLY COMMENTS OF THE
GENERAL SERVICES ADMINISTRATION**

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May 3, 1996

SUMMARY

In these Reply Comments, GSA responds to the recommendations of over forty commenting parties in this proceeding.

GSA agrees with most other parties that the Commission should retain its present product and geographic definition of the interstate interexchange market. The fact that a carrier may possess market power over local access in a geographic submarket does not imply that the interstate interexchange market itself is not a single market.

GSA does not accept the arguments of the largest LECs that the structural separation of LEC local and interexchange operations is burdensome and unnecessary. GSA agrees with most IXCs and state commissions that the Commission's present structural separation requirements have proven effective, without being unduly burdensome.

GSA agrees with all other parties addressing the subject that the Commission should exempt contract services from the requirement for geographic rate averaging.

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Policy and Rules Concerning the Interstate, Interexchange Marketplace)	CC Docket No. 96-61
)	
Implementation of Section 245(g) of the Communications Act of 1934, as amended)	
)	

**REPLY COMMENTS OF THE
GENERAL SERVICES ADMINISTRATION**

The General Services Administration ("GSA"), on behalf of the customer interests of all of the Federal Executive Agencies, submits these Reply Comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM"), FCC 96-123, released March 25, 1996.

I. Introduction

In Comments filed on April 19, 1996, GSA urged the Commission to retain its present product and geographic definition of the interstate interexchange market, to retain its present separation requirements between the local and interexchange operations of local exchange carriers ("LECs"), and to exempt contract services from the requirement for geographic rate averaging.

Comments in this proceeding were also filed by a variety of other parties, including:

- The United States Telephone Association (“USTA”) and thirteen individual LECs and LEC representatives;
- The Competitive Telecommunications Association (“CompTel”) and twelve individual interexchange carriers (“IXCs”); and
- The National Association of Regulatory Utility Commissioners (“NARUC”) and twelve individual state commissions or government representatives.

In these Reply Comments, GSA responds to the comments and recommendations of these parties.

II. The Commission Should Retain Its Present Product And Geographic Definition Of The Interstate Interexchange Market.

In its Comments, GSA supported the Commission’s tentative conclusion that it will continue to treat interstate, interexchange point-to-point service within and among the United States and its overseas territories as the single, relevant market for purposes of determining whether any carrier is capable of exercising market power.¹

Most commenting parties also support this definition.² Ameritech, for example, states:

¹ Comments of GSA, p. 2.

² See, e.g., Comments of Florida Public Service Commission (“Florida”), pp. 6-8; Ameritech, pp. 12-15; NYNEX Telephone Companies (“NYNEX”), pp. 4-8.

Particularly in light of the geographic averaging provisions of the 1996 Act, there would appear to be no reason for the Commission to recognize anything other than a single, nationwide geographic market for interstate, interexchange services. That is because, as the Commission recognizes, even if a carrier has market power in a particular geographic market, that carrier must price its services in that market at the same rates as its services in other geographic markets.³

General Communications, Inc. ("GCI") suggests that there are cases, such as in Alaska, where it is necessary to evaluate geographic submarkets to determine if a carrier possesses market power.⁴ As GSA pointed out in its Comments, however, any such market power would flow from the carrier's control of the local access market and from the ability to tie that control to the offering of interexchange services.⁵ The interstate interexchange market itself should be regarded as a single market as the Commission has proposed.

III. The Commission Should Retain Its Present Separation Requirements Between The Local And Interexchange Operations of LECs.

In its Comments, GSA urged the Commission to retain its present structural separation requirements between the local and interexchange operations of all LECs.⁶

³ Comments of Ameritech, p. 13.

⁴ Comments of GCI, p. 3.

⁵ Comments of GSA, p. 2.

⁶ Id., pp. 3-4.

Most large LECs oppose structural separation as being burdensome and unnecessary.⁷ Pacific Telesis Group, Inc. ("Pacific"), however, seeks only regulatory parity with newly authorized LECs. Pacific states:

To maintain a level playing field, all interLATA competitors should be subject to the same degree of regulation and meet the same safeguards. As long as Pacific Telesis must provide interLATA services through a Section 272 separated affiliate, regulatory symmetry requires that newly authorized LECs from other regions offer competing service through a separate affiliate. Consistent with this position, the Pacific Telesis Group will offer service in other regions through a Section 272 affiliate as long as the in-region requirement remains in effect.⁸

Virtually all commenting IXCs and state commissions strongly urge the Commission to retain or strengthen its structural separations requirements.⁹ Sprint Corporation ("Sprint"), which has lived under these requirements for many years, states:

There is no reason for the Commission to abandon the existing separations requirements established in *Competitive Carrier* either for independent LECs or Bell Operating Companies. Sprint can assure the Commission, first hand, that these requirements have hardly proven to be "unduly burdensome."¹⁰

On the other hand, the need for structural separation is clear. MCI Telecommunications Corporation ("MCI") states:

⁷ See, e.g., Comments of Bell Atlantic, pp. 4-9; GTE Service Corporation ("GTE"), pp. 6-13; BellSouth Corporation ("BellSouth"), pp. 23-25.

⁸ Comments of Pacific, p. 9 (footnote deleted).

⁹ See, e.g., Comments of America's Carriers Telecommunications Association ("ACTA"), p. 7; Alabama Public Service Commission ("Alabama"), pp. 5-7; Washington Utilities and Transportation Commission ("Washington UTC"), pp. 2-3.

¹⁰ Comments of Sprint, p. 8.

As set forth in Competitive Carrier, the BOCs' and other LECs' local bottleneck power would allow them to discriminate against competitors dependent upon access to the local network and to shift costs.¹¹

The Missouri Public Service Commission ("MoPSC") states:

The 1996 Act, no fewer than nine times, mentions prohibition of subsidies or cross subsidies. For instance, telecommunications carriers "may not use services that are not competitive to subsidize services that are subject to competition." Unless the FCC requires a LEC to maintain separate records for its LEC and IXC operations, it will be extremely difficult, if not impossible, to determine whether any inappropriate subsidization or cross subsidization is taking place.¹²

The Commission's present structural separation requirements have proven effective, in preventing cross-subsidization. As Sprint has testified, they have not been unduly burdensome. GSA urges the Commission to retain them and extend them to the operations of all Bell Operating Companies ("BOCs").

IV. The Commission Should Exempt Contract Services From The Requirement For Geographic Rate Averaging.

In its Comments, GSA described at length the need for the Commission to exempt contract services from the requirement for geographic rate averaging.¹³ There was strong

¹¹ Comments of MCI, p. 13 (footnote deleted).

¹² Comments of MoPSC, p. 4 (footnote deleted).

¹³ Comments of GSA, pp. 4-9.

support for GSA's position in the comments of other parties.¹⁴

USTA states:

Congress did not intend that existing contracts for provision of telecommunications services be renegotiated. Congress also notes that the Commission has permitted interexchange carriers to offer non-averaged rates for services in some limited situations, such as AT&T's Tariff 12 contracts, and expects this practice to continue. Accordingly, any rate realignment necessary to comply with a newly adopted rate averaging rule would exclude rates covered under these agreements.¹⁵

AT&T describes the value of contract services as follows:

Customers also greatly benefit from Tariff 12, contract tariff and other similar high-end business services. Competition for the customers of these services -- the largest and most sophisticated telecommunications customers -- is intense, and these services allow carriers to provide telecommunications packages tailored to customers' needs at the lowest possible competitive prices. That is why the Commission has previously found that both Tariff 12 and contract tariff services serve its pro-competition objectives.¹⁶

The Telecommunications Resellers Association ("TRA") concurs, and adds:

An overly broad reading or application of the Section 254(g) geographic rate averaging/rate integration mandates could hamstring carrier efforts to address the specific needs of individual customers.¹⁷

¹⁴ See, e.g., Comments of WorldCom, Inc., d/b/a LDDS WorldCom ("LDDS WorldCom"), pp. 13-14; CompTel, pp. 7-9; MCI, pp. 30-36.

¹⁵ Comments of USTA, p. 3 (footnote deleted).

¹⁶ Comments of AT&T, p. 37.

¹⁷ Comments of TRA, p. 30.

GSA urges the Commission to continue to allow the IXCs to respond to the competitive market by offering contract services, and to exempt contract services from the requirement for geographic rate averaging.

V. Conclusion

As the agency vested with the responsibility for acquiring telecommunications services on a competitive basis for the use of the Federal Executive Agencies, GSA urges the Commission to retain its present product and geographic definition of the interstate interexchange market, to retain its present separation requirements between the local and interexchange operations of local exchange carriers, and to exempt contract services from the requirement for geographic rate averaging.

Respectfully Submitted,

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May 3, 1996

CERTIFICATE OF SERVICE

I MICHAEL J. ETTNER, do hereby certify that copies of the foregoing "Reply Comments of the General Services Administration" were served this 3rd day of May, 1996, by hand delivery or postage paid to the following parties:

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