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STATE CORPORATION COMMISSION
DIVISION OF COMMUNICATIONS

May 14, 1996

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

RE: Implementation of the Local
Competition Provisions in the
Telecommunications Act of 1996
CC Docket No. 96-98

Dear Sir:

Enclosed please find comments of the Virginia State Corporation Commission Staff in the above referenced case.

Very truly yours,

Edward C. Addison

Edward C. Addison
Director

ECA:js
Enclosure

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

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	**CC Docket No. 96-98**
	)	

INITIAL COMMENTS OF THE

VIRGINIA STATE CORPORATION COMMISSION STAFF

Virginia State Corporation Commission
Division of Communications
P. O. Box 1197
Richmond, Virginia 23218

May 14, 1996

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

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	**CC Docket No. 96-98**
	)	

INITIAL COMMENTS OF THE

VIRGINIA STATE CORPORATION COMMISSION STAFF

The Division of Communications Staff of the Virginia State Corporation Commission ("VSCC") hereby submits initial comments in response to the Federal Communications Commission's ("FCC") Notice of Proposed Rulemaking ("NPRM") in CC Docket 96-98, In the Matter of Implementation of the Local Exchange Provisions in the Telecommunications Act of 1996 ("Act").

Our limited comments are directed at the overall prescriptive nature of the FCC's NPRM. We believe the FCC is on a misguided course with respect to establishing rules to implement Section 251. Its apparent intent to usurp State responsibilities under Section 252 is directly counter to provisions of the Act. Congress did not grant the FCC authority in the Act to mandate rigid or explicit national rules which result in preempting State authority.

The FCC should establish broad and flexible regulations to implement the interconnection regulations as required under Section 251(d) of the Act. This would enable States to review the actual interconnection agreements on the basis of the FCC's Section 251 general regulations to ensure compliance by the States as contemplated under

Section 252 of the Act. Rigid and explicit national requirements would not reflect the inherently intrastate nature of interconnection between competing local exchange telephone networks and a State's ability to consider appropriate local conditions.

Only broad and flexible Section 251(d) interconnection implementation regulations would enable the FCC to meet the Section 251(d)(3) requirement which specifically preserves State authority. Section 251(d) states that the FCC "shall not preclude" the enforcement of any State commission regulation, policy or order that:

> (A) establishes access and interconnection obligations of local exchange carriers:
>
> (B) is consistent with the requirements of this section; and
>
> (C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

In particular, we dispute the FCC's conclusions in paragraphs 117 through 120 which would result in the FCC establishing pricing principles. The FCC has mistakenly interpreted Section 251 language regarding the general obligation of incumbent local exchange carriers to provide interconnection and unbundled access on "rates, terms and conditions that are just, reasonable, and nondiscriminatory ...". This section in no way requires the FCC to mandate pricing standards to be utilized by States in meeting the requirements of Section 252.

The FCC's conclusions on pricing policy raise needless jurisdictional question and are illogical. Section 252(d) of the Act entitled "Pricing Standards" is clear in its directive that States are to determine just and reasonable rates for interconnection and unbundled access, as well as charges for transport and termination of traffic and

wholesale rates. If Congress had intended the FCC to establish pricing policy, it would have granted the FCC jurisdiction over the Section 252(d) standards. Congress did not do so. In fact, Congress established in Section 252(d), in some detail, the pricing standards it expects States to follow.

We would not object if the FCC adopts specific pricing standards for those cases when it will be required to act under Section 252(e)(5) if a State has not acted. However, any such pricing standards should not be established as rigid requirements for States that do act.

The establishment of pricing principles by the FCC for such limited circumstances could also assist States that choose or need to adopt the FCC standards to help meet the Act's time constraints relating to reviewing interconnection agreements or a Statement of Generally Available Terms as required in Section 252. This should help alleviate any FCC concerns that some States may not be fully prepared to meet this task.

On December 13, 1995, in response to State legislation enacted in 1995 which removed barriers to entry, the VSCC adopted rules in Case No. PUC950018 to implement local exchange telephone competition in Virginia. These rules are very consistent with the competitive and implementation policies set forth in the Act. Under our rules, eight companies already have requested certification to provide local exchange telephone service in Virginia. Two carriers, MFS Intelenet of Virginia, Inc. and MCImetro Access Transmission Services of Virginia, Inc. were granted certificates on April 30, 1996, and four additional certification requests are scheduled for hearings in the next two months.

We assure the FCC that the VSCC was (and still is) implementing local exchange telephone competition in Virginia under its own rules. and the requirements of the Act as envisioned by Congress can be readily incorporated into existing VSCC procedures and proceedings.

Respectfully submitted,

Edward C. Addison

Edward C. Addison, Director
Division of Communications
Virginia State Corporation Commission

May 14, 1996

Attachment A

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

o Microfilm, microform, certain photographs or videotape.

o Other materials which, for one reason or another, could not be scanned into the RIPS system.

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