

FCC MAIL SECTION

Federal Communications Commission

May 30 10 40 AM '96

DA 96-839

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

In the Matter of)
)
Allocation of Costs Associated with) CC Docket No. 96-112
Local Exchange Carrier Provision of)
Video Programming Services)

ORDER

Adopted: May 24, 1996; Released: May 24, 1996

By the Chief, Accounting and Audits Division, Common Carrier Bureau:

1. On May 16, 1996, Southwestern Bell Telephone Company (SWB) filed a motion for extension of time for filing comments and reply comments on the Notice of Proposed Rulemaking (Notice) in the above-referenced docket. SWB also asked that we increase the number of pages permitted for comments and reply comments. On May 17, 1996, the United States Telephone Association (USTA) filed a motion for extension of time. The National Cable Television Association (NCTA) filed an opposition to USTA's motion on May 23, 1996. By this Order we grant in part the motions for extension of time and deny SWB's request to extend page limits.

2. The Commission released the Notice on May 10, 1996, and provided for a comment date of May 28, 1996 and a reply comment date of June 7, 1996. USTA requests extension of the comment date to June 10, 1996 and of the reply comment date to July 1, 1996. In support of its request, USTA argues that the time within which to prepare comments is inadequate because of the occurrence of weekends and the Memorial Day holiday.¹ USTA contends that the comment period is insufficient to permit the development of a record adequate to respond to the complicated issues presented in the Notice.² USTA asserts that this proceeding is not mandated by the Telecommunications Act of 1996 and that it is "fundamentally unfair" to link the cost allocation issues to the Commission's proceeding on open video systems.³ USTA also contends that the time limits established in the Notice are "so unreasonable as to deny interested parties their due process right to participate in a meaningful manner."⁴

¹ USTA Motion at 1-2.

² *Id.* at 2.

³ USTA Motion at 2-3; accord SWB Motion at 2..

⁴ *Id.* at 3; see also SWB Motion at 3.

3. SWB requests dates of June 10 and June 30 for comments and reply comments, respectively. SWB seeks an increase in the page limit for comments from 25 to 50 pages and an increase in the page limit for reply comments from 15 to 25 pages. SWB asserts that the Notice proposed extensive changes to the cost allocation rules that would have far reaching implications on its operations.⁵ SWB contends that the time and page limitations will not permit development of a sufficient record.⁶

4. NCTA opposes USTA's request for extension of time arguing that prompt resolution of cost allocations issues raised in the Notice is vital to ensuring that interstate telephone "charges . . . [are] just and reasonable."⁷ NCTA asserts that, although the issues to be addressed are complex, they are not new.⁸ Concerning claims that the timing for this proceeding need not be linked to the open video system proceeding and is not required specifically in the 1996 Act, NCTA argues that without rules that allocate costs between regulated services and open video system, the Commission would have no basis for determining whether telephone rates offered over integrated telephone and video systems are "just and reasonable" as required by Section 201(b) of the Communications Act.⁹ Furthermore, NCTA contends, until this proceeding is completed, the Commission will be unable to determine whether open video system rates are "just and reasonable."¹⁰ Finally, NCTA states that it must file comments under the same deadlines as other parties and that it is prepared to file on time. NCTA urges us to maintain the present schedule so that the Commission may complete its deliberations as promptly as possible.¹¹

5. The Commission does not routinely grant extensions of time.¹² Even though cost allocation procedures related to open video systems are not specifically addressed in the 1996 Act, incumbent local exchange carriers cannot offer services over such systems without complying with the Commission's cost allocations rules. Because the current rules may not be adequate to address these cost allocations for integrated systems providing both telephony and video services, the Commission linked this proceeding to the open video systems proceeding to

⁵ SWB Motion at 1.

⁶ *Id.* at 2.

⁷ NCTA Opposition at 1, citing 47 U.S.C. § 201(b).

⁸ *Id.* at 1-2, citing R.M. Pepper, "Through the Looking Glass: Integrated Broadband Networks, Regulatory Policies, and Institutional Change," OPP Working Paper No. 24, Nov. 23, 1988; Joint Petition of the Consumer Federation of American and the National Cable Television Association for Rulemaking and Request for Establishment of a Joint Board, RM-8221, Apr. 21, 1993 (raising issues of video/telephone cost allocations).

⁹ *Id.*, citing 47 U.S.C. § 201(b).

¹⁰ *Id.* at 3, citing 1996 Telecommunications Act, § 653(b)(1)(A).

¹¹ *Id.* at 3.

¹² See 47 C.F.R. § 1.46(a).

comply with the directive of the Act "to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans"¹³

6. Nonetheless, we believe that some additional time is warranted given the Memorial Day holiday. Accordingly, we will extend the times for filing comments and reply comment to May 31, 1996 and June 10, 1996, respectively. This additional time should not impinge on our ability to maintain our schedule for this proceeding.

7. With respect to the page limits, we have excluded substantive appendices from those limits.¹⁴ In view of this action, we are not persuaded that increasing the page limits would help the parties develop, or the Commission resolve, the issues in this proceeding. Therefore, we do not increase the page limits.

8. Accordingly, pursuant to Sections 4(i) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c), and Section 0.91, 0.291 and 1.46 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.46, IT IS ORDERED that the motion for extension of time filed by the United States Telephone Association IS GRANTED to the extent indicated above and otherwise IS DENIED.

9. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c), and Section 0.91, 0.291 and 1.46 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.46, that the motion for extension of time and waiver of page limit filed by Southwestern Bell Telephone Company IS GRANTED to the extent indicated above and otherwise IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Kenneth P. Moran
Chief, Accounting and Audits Division
Common Carrier Bureau

¹³ Telecommunications Act of 1996 Conference Report, S. Rep. 104-230 at 113 (Feb. 1, 1996); see Allocation of Costs Associated with Local Exchange Carrier Provision of Video Programming Services, *Notice of Proposed Rulemaking*, CC Docket No. 96-112, FCC No. 96-214 (rel. May 10, 1996).

¹⁴ See Public Notice "Allocation of Costs Associated with Local Exchange Carrier Provision of Video Programming Services; Notice of Proposed Rulemaking, CC Docket No. 96-112, FCC 96-214," DA 96-774 (rel. May 15, 1996).