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LEC-CMRS Interconnection WHITE PAPER No. 4
First Series

RECIPROCAL TERMINATION ISN'T A THREAT TO CONSUMERS' BILLS, AND UNIVERSAL SERVICE WILL NOT DISAPPEAR IF IT'S ADOPTED

July 15, 1996

Reciprocal Termination Isn't a Threat to Consumers' Bills, and Universal Service Will Not Disappear If It's Adopted

Eliminating the excessive rates charged by LECs for CMRS interconnection will not generate new costs for local telephone users, as some LECs have charged. Indeed, the expert representatives of residential and business communications consumers have all unequivocally supported the FCC's reciprocal termination (or "bill and keep") proposal.[1] Moreover, the FCC is separately addressing the issue of universal service in another proceeding, and should not allow the red herring of "LEC vulnerability to competition" to distract it from dealing with the real issue at hand: excessive LEC interconnection rates.

Crying Wolf

For decades the LECs have attacked each new area of consumer choice and competition as guaranteeing that local telephone rates would increase. The LECs have cried wolf so many times, the FCC should follow the lead of the Michigan PSC, which, in a recent CLEC-interconnection proceeding, recognized the "exaggerated claims" of one LEC as being without merit. As the Michigan PSC noted, approvingly quoting one witness:

> [The LECs] claims of serious economic harm are like an echo from the past. Since the late 1950's, the LECs have advanced virtually the identical claims of economic harm, 'imbalanced competition' and 'cream-skimming', as grounds for rejecting every federal and state policy designed to promote competition in telecommunications. Regulators were told that revenues from customer premises equipment ("CPE") were an essential source of cross-subsidy to keep local exchange service affordable and universally available; supposedly even a device as simple as a plastic cup attached to a phone receiver to allow the speaker to have a private conversation held the potential to undermine the entire foundation of universal service in America. (footnote omitted.) But the CPE deregulation failed to produce the predicted cataclysm, and LECs . . . were able to upgrade their networks and to provide affordable service even in rural areas.
>
> Similar arguments have been advanced against competition for a host of other services, most notably toll services. **In each case,**

[1] *See e.g.*, Letter from Brian R. Moir, International Communications Association, Brad Stillman, Consumer Federation of America, Arthur A. Butler, TRACER, and August Sairnen, Information Technology and Telecommunication Association, to the Honorable Chairman Reed E. Hundt, and Commissioners James H. Quello, Andrew C. Barrett, Susan Ness and Rachelle B. Chong, March 26, 1996; Statement of Bradley Stillman, Telecommunications Policy Director, CFA, June 25, 1996, ICA Press Release, June 25, 1996; Letter from Steve Appel, President, Washington State Farm Bureau, to the Chairman Reed E. Hundt, FCC, May 3, 1996; *and* Reply Comments of Telecommunications Ratepayers Association for Cost-based and Equitable Rates (TRACER), CC Docket No. 95-185, March 22, 1996, at p.4.

regulators have been assured that revenues from the targeted service were essential to the LECs' ability to offer universal service, and in each case, the advent of competition has failed to produce the demise of affordable local exchange service.[2]

The Michigan PSC noted the continuing "significant competitive advantages" that Ameritech possessed, and therefore rejected the argument that it would be "handicapped and placed at a serious competitive disadvantage."[3] Instead, the Michigan PSC adopted a proposal which effectively constituted bill and keep when traffic was balanced plus or minus five percent, and imposed a mutual compensation obligation when traffic fell outside that band.[4]

A Small Part of Local Revenues

CMRS interconnection revenues are only a small fraction of LEC revenues today (0.9 percent *at most*). Overall LEC revenues are growing at 3 percent annually. Thus, the suggestion that the removal of these excessive payments would increase local rates is absurd on its face.

Most important, competition in telecommunications is not a zero sum game. The history of telecommunications competition is that the lower prices and greater choices it creates cause growth in overall demand, so all carriers benefit. Specifically, not counting interconnection revenues, the continuing growth in wireless calls is producing additional use of the LECs' fixed plant and direct income to the LECs in the form of residential and business message unit charges.

As the leading residential and business consumer groups said to the FCC in a letter supporting its bill and keep proposal:

> It is probably true that one transitional result of B&K will be to reduce revenues to LECs. But these amounts do not appear to be large, and the loss should be made up quickly by the general growing volume of calls to wireless phones, and by simple supplementary services LECs can offer related to wireless phones (e.g., directory assistance for wireless numbers, call completion to wireless numbers, etc.).[5]

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[2] *In The Matter of the Application of City Signal, Inc., for an Order Establishing and Approving Interconnection Arrangements with Ameritech Michigan*, Case No. U-10647, 1995 Mich. PSC LEXIS 32, at pp.14-15, *quoting* Terry L. Murray, economist and principal, of Murray & Associates, witness for City Signal (emphasis supplied) The Michigan PSC's own staff director testified that no negative impact on LECs had been observed as a result of the PSC's pro-competitive decisions. *Id.* at p.18.

[3] *Id.* at p.18.

[4] *Id.* at pp.45-47.

[5] Letter from International Communications Association, Consumer Federation of America, TRACER, and Information Technology and Telecommunication Association, to the Honorable Chairman Reed E. Hundt, *et al.*, March 26, 1996.

Thus, any amounts the LECs lose from terminating excessive CMRS payments can easily be made up from market growth and these new revenue sources.

AN UNEXPECTED WINDFALL

Most local telephone rates were set several years ago, including price cap regimes of various kinds in about 30 states. If amounts from CMRS interconnection were in fact included in local rate setting then, the explosive growth of wireless usage in the last few years has made that growth a windfall to LEC shareholders, particularly in price cap states. CTIA estimates that cellular minutes of use have more than doubled since 1992.

Thus, removal of these excessive charges would not have a one-for-one impact on local rates. Nor would it have a one-for-one impact on LEC shareholders, since most LECs are also heavily involved in the wireless business which would benefit from increased demand as its rates were reduced.

IF A LOCAL RATE SUBSIDY, AN INAPPOPRIATE ONE

It is clear that CMRS interconnection fees are subsidizing something, because they are far in excess of cost. But there is no evidence that they are subsidizing anything other than LEC profits. Even if they were subsidizing local rates, the new Telecommunications Act orders that all such subsidies to be explicit, rather than this kind of back-door approach. The FCC and a Joint Board are in the middle of determining exactly what subsidies are required for universal service. That is where such decisions should be made, rather than in this proceeding (or worse, in private negotiations ruled on by 51 PUCs).

CONCLUSION

As the leading residential and business consumer groups told the FCC in March: "We believe B&K will produce significant consumer benefits."[6] On such matters, the FCC should give such groups' opinions far greater weight than the self-interested arguments of LECs resisting competition.

[6]Letter from International Communications Association, Consumer Federation of America, TRACER, and Information Technology and Telecommunication Association, to the Honorable Chairman Reed E. Hundt, *et al.*, March 26, 1996.

ATTACHMENTS

Consumer Federation of America

Statement of
Bradley Stillman
Telecommunications Policy Director
June 25, 1996

Competition is threatening to break out in many sectors of the telecommunications industry. While we have been urging federal and state regulators to help bring competition as soon as possible, the jury is still out as to when competition will reach the residential consumer. One sector of the industry where competition could reach residential consumers in the short term is the wireless market. For the promise of competition and its benefits, including lower prices and more innovation, to become a reality for the wireless market the issue of reciprocal termination must be addressed.

CFA has supported a mutual traffic exchange regime for interconnection of both wireline networks and wireless networks. If a carrier can demonstrate that a long term inequality of traffic exchange persists, differences can be settled up at reasonable compensation rates. Such a plan is certainly the easy to administer, and perhaps more importantly, it removes one of the potential barriers to competition. The fact is, there is an incentive for local wireline carriers to inflate and complicate termination charges as a means of keeping wireless prices artificially high and, therefore, less competitive.

We maintain that along with lower rates for consumers, one of the fundamental goals of the 1996 Telecommunications Act was to eliminate barriers to competition in all markets. Instituting a simple bill and keep regime on an interim basis for wireless interconnection would be a pro-consumer, pro-competitive step in the right direction.

As new players come to the wireless market, a reduction in artificially inflated termination charges will provide an increased opportunity for aggressive price competition. Such a downward pressure on rates could help make wireless services more affordable for the residential consumer, for whom these services are currently too expensive. The fact is, if prices decline, the residential user will be a significant growth market for wireless services.

The current compensation regime for traffic exchange is the most anti-consumer, anti-competitive model and is a remaining vestige of monopoly control over the local network. The Commission has made the appropriate proposal to institute an interim bill and keep regime for wireless services. CFA hopes this proposal will move forward and that the Commission and the state regulators will use it as a pro-competitive model for dealing with this important issue in other interconnection proceedings.

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PRESS RELEASE

June 25, 1996

The International Communications Association (ICA) is the largest association of telecommunications users in the United States, with more than 500 members, who spend approximately $23 billion on telecommunications services and equipment. ICA strongly supports a "bill and keep" ("B&K") approach for interconnection charges between local wireline (LEC) services, wireless and new entrant wireline services.

We are deeply concerned that the Federal Communications Commission (FCC) may be backing away from its recent proposal to institute B&K for wireless interconnection as a result of heavy pressure from local telephone companies. Failure to enact this proposal would cost business and residential wireless consumers hundreds of millions in annual savings, seriously delay the advent of wireless competition for local telephone service, and undermine the use of B&K for wireline interconnection.

This proposal would eliminate the largest single barrier to the rapid growth of new wireless competition and avoid requiring private parties and then regulators to engage in complicated, expensive proceedings to set interconnection rates for both wireline and wireless carriers. Most important, it would make irrelevant the vastly unequal bargaining power that currently exists between the incumbent LECs and their supposed competitors.

There is nothing radical about bill and keep. This is the same system that neighboring local telephone companies have generally applied to each other's traffic for decades. It is the system a growing number of states have recently instituted to govern interconnection of new and incumbent local wireline companies.

If wireless is to provide some competition to the incumbent LECs in the future, sound national policies for interconnection charges will be critical. Since today's average cellular caller pays 3 cents per minute to complete a call on the local telephone company's network, these charges by themselves are a barrier to wireless competing with local wireline service.

We have great respect for the role of state public service commissions in telephone regulation. However, the unique statutory system for wireless and the multi-state nature of many wireless service areas, necessitate that the FCC mandate national policies for interconnection charges.

The FCC says the development of local competition is its top priority. Its actions in the proceeding will give telecommunications customers an early indication of how serious that commitment is.

[For additional information please contact Brian R. Moir at 202/331-9852.]

For Immediate Distribution

Contact: Jennifer Walsh
Director of Industry Affairs
202/371-2784

NextWave, Other PCS Providers Seek 'Co-Carrier' Status

WASHINGTON, June 25, 1996--Today NextWave Telecom, Inc., together with other new PCS (personal communications service) providers, urged the FCC to adopt a new interconnection model for wireless service providers that terminate traffic on landline local exchange networks. A policy of "reciprocal termination" between wireless service providers and landline local exchange carriers would result in increased local exchange competition, "regulatory parity" among competitors, and lower fees for consumers, the PCS providers said.

Following is an outline of remarks made by Jennifer Walsh, Director of Industry Affairs for NextWave, during a press briefing held in Washington, D.C., this morning.

(1) **Federal Jurisdiction over the Wireless Industry:** In order to ensure the competitive development of wireless services, Congress firmly established federal jurisdiction over the wireless industry with the Budget Act of 1993. At that time, Congress amended section 332 of the Communications Act, determining that wireless services should be governed at the federal level rather than the state level.

Congress recognized that federal jurisdiction was necessary for CMRS providers, given the unique nature of providers' service areas, which do not conform to state boundaries. Over 90% of Americans live in interstate service areas (including two or more states). And many other states are served by multi-state wireless networks. APC, for example, serves Maryland, Virginia, and the District of Columbia with one integrated network.

If each state were to adopt its own interconnection policy, major confusion would result in the marketplace. That is why it is imperative for the FCC to promulgate national interconnection standards. Otherwise, the pro-competitive goals outlined by Congress will be hamstrung by inconsistent state policies.

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Recent research shows that wireless callling is growing rapidly as subcribers now near the 40 million mark. Also, wireless carriers report the balance of traffic between wireless and wireline networks is shifting from 80 percent /20 percent ratio (calls originating on wireless vs. landline originating calls) to a 60 percent/40 percent ratio. In the Washington area for example, APC's ratio is nearing the 50-50 mark.

The wireless competitors also emphasized that local telephone companies are currently striking interconnection agreements with other service providers that are far less costly than what they are charging the wireless industry. Most economic experts agree that today it costs carriers next to nothing to exchange telephone traffic between differing networks. In fact, local telephone companies costs associated with tracking and billing for these calls may exceed what it actually costs them to terminate wireless calls.

The groups warned that if the FCC bows to the arguments of local telephone companies and remands the decision to state governments, it will create long, drawn out regulatory and legal battles over the 'right price' for interconnection. The new PCS competitors also stressed that a negative FCC decision would not fundamentally affect their mobile business, but would force them to continue passing through over $1 billion in unfair charges to consumers, and would prevent wireless from emerging as a full competitor of local telephone companies.

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communications

NEWS

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POCKET COMMUNICATIONS URGES FCC TO ELIMINATE DISCRIMINATORY INTERCONNECTION POLICIES FOR WIRELESS PROVIDERS; MOVE WOULD PASS BILLIONS IN SAVINGS ON TO CONSUMERS

WASHINGTON, D.C., June 25, 1996 -- The following statement is attributable to Daniel C. Riker, chairman and chief executive officer of Pocket Communications, Inc.:

"As a successful C-Block bidder in the recently-concluded PCS spectrum auction, we have committed to pay $1.4 billion to the Federal Government for wireless licenses -- plus a great deal more to build our network -- for the right to compete with the local phone monopoly for wireless local telephone service. We are hopeful the FCC continues to support its policies to create more wireless competition, which benefits consumers.

"Today, consumers of wireless services pay more than $1 billion annually in unfair and unnecessary charges to the local phone monopolies. Wireless companies are required to pay the local monopolies an average of three cents per minute for completing calls, which is passed along to consumers. On the other hand, the local monopolies pay nothing to wireless carriers when the situation is reversed.

"Throughout the decade, the FCC and Congress have been on a consistent track regarding wireless communications, supporting a national policy of competition and deregulation. Give consumers a choice by creating a fair environment for more competitors. Billions of dollars have been invested and thousands of new jobs have been created resulting in more competitors, better products and more affordable services. We believe the FCC will side with the American public and vote to eliminate these unfair interconnection costs. The big winner will be the consumer."

Pocket Communications, Inc. is headquartered in Washington, D.C. and will offer consumers and businesses a broad portfolio of wireless telecommunications services including local, long distance, information, messaging, Internet access and data services. Pocket was formed in 1994 as DCR and is the nation's sixth largest PCS company and second largest company in the U.S. using GSM technology, the global PCS standard. Pocket's major markets include Chicago, Detroit, Dallas-Ft. Worth, St. Louis, New Orleans, Las Vegas and Honolulu.

####

Pocket Communications, Inc.
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For Immediate Release
June 25, 1996

CONSUMER GROUPS AND NEW WIRELESS COMPETITORS URGE FCC NOT TO RETREAT ON PROPOSED 'BILL AND KEEP' POLICY

Consumers Would Save $1 Billion Annually; Critical for New Competition in Local Markets

WASHINGTON, D.C. – Representatives from national consumer groups and new wireless competitors today urged the Federal Communications Commission (FCC) not to retreat from its proposed "bill and keep" policy. The policy, now being decided by the commission, would eliminate an approximate $1 billion "windfall" local telephone companies collect in unnecessary surcharges to wireless consumers for calls made from wireless phones to landline telephones, according to the groups.

The Consumer Federation of America, Pocket Communications, Inc. (formerly DCR), American Personal Communications (APC), Sprint Spectrum, NextWave Communications, and Cox Enterprises, said in a press briefing here that the prospect of the FCC's retreat on the issue would be "anti-consumer and anti-competitive." The groups, which represent the consumer and business telecom users, winners of the PCS C-block spectrum auctions, and one of the country's first two operating PCS competitors, said the FCC's bill and keep proposal is critical to fostering local telephone competition and reducing the current cost of wireless services, and will stimulate the growth of the overall telecommunications market as calling between wireless and local wireline networks continues to grow.

Under the existing regulatory scheme, wireless consumers typically pay a 3 cent per minute surcharge on every call to a wireline telephone. Local wireline telephone consumers, however, don't generally pay extra for calls to wireless phones, or for calls exchanged between local telephone networks. The FCC has proposed that each local wireless and wireline company be required to connect calls from each other's network at no charge, and will make a final decision this summer.

-more-

(2) LECs and Mutual Compensation: It has become increasingly evident that even local exchange carriers believe that interconnection charges are unnecessarily high. In some of the more recent deals between LECs, these wireline providers are agreeing to (a) vastly lower charges, (b) reciprocal treatment, and (c) sometimes federal jurisdiction.

BellSouth and Time/Warner, for example, have established an agreement that really is tantamount to the "bill- and-keep" proposal that the FCC has outlined. The terms and conditions of that agreement actually outline an initial six-month period were the carriers are entitled to retain the revenues from calls originated on their own networks.

(3) State Use of 'Bill and Keep': For many years LECs have been terminating each other's calls without charging the originating carrier for call termination. State regulatory commissions are now extending this arrangement--generally known as "bill and keep"--to CLECs (competitive local exchange carriers) at least on an interim basis.

(4) Negotiations Between LECs and CMRS Providers: LECS have been urging the FCC to stay out of the interconnection process and let the carriers negotiate independently. On its face, this would seem like a good idea; that is until one considers the fundamental precept of such negotiations. The outcome cannot be fair if one party has all the bargaining power, as the LECs do today.

The FCC's Chief Economist Joe Farrell recently noted that the LECs can walk away from interconnection negotiations and not fundamentally harm their business. Wireless carriers, on the other hand, have to be able to interconnect with the LECs' networks. And that is why we are urging the FCC today to adopt its pending LEC-CMRS interconnection proposal in the Common Carrier docket 95-185 proceeding.

March 26, 1996

The Honorable Reed E. Hundt, Chairman
The Honorable James H. Quello, Commissioner
The Honorable Andrew C. Barrett, Commissioner
The Honorable Susan Ness, Commissioner
The Honorable Rachelle B. Chong, Commissioner
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554-0001

Re: Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers (CC Docket No. 95-185) and Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers (CC Docket No. 94-54)

Dear Chairman Hundt and Commissioners Quello, Barrett, Ness and Chong:

The undersigned organizations actively represent the interests of residential and business consumers of telecommunications in federal and state legislative and regulatory proceedings.

We strongly support the Commission's proposal to institute a "bill and keep" ("B&K") approach for local interconnection charges between local wireline and Commercial Mobile Radio Service ("CMRS") services. Under B&K, each local telephone company and each cellular or PCS company will bill for the calls originated by its customers, and will be obligated to accept and complete calls that originate on other networks at no fee to that network. This is the same system that neighboring local telephone companies have generally applied to each other's traffic for decades.

We believe this approach has a number of benefits. It will: eliminate the largest single barrier to the rapid growth of new wireless competition; encourage lower wireless prices; facilitates wireless to offer competition to local telephone service; and avoid requiring the Commission and private parties to engage in complicated, expensive proceedings to set interconnection rates for both wireline and CMRS carriers.

Immediate Savings to Consumers

We believe B&K will produce significant consumer benefits. Currently, wireless companies add an "interconnection surcharge" to each wireless call (typically around 10 cents) to recoup the per minute termination fees charged by local exchange carriers ("LECs"). The entry of more competitors into the wireless business should lead service providers to pass these cost savings along to consumers.

In addition, the B&K proposal will eliminate the largest current regulatory barrier to the rapid growth of PCS service. One of the major costs and concerns of the multiple new PCS competitors in each market is the cost of interconnection with the local telephone company. B&K removes that as an economic and regulatory barrier. The first PCS competitor in the Washington, DC market is already charging less than the cellular incumbents, and offering more services. B&K will provide increased momentum to this new competition, and that competition will increase this downward pressure on wireless prices.

Medium and Long Term Savings to Consumers

We believe wireless may eventually be an effective alternative to local wireline telephone service for many consumer needs. Consumers were major beneficiaries when competition was introduced into equipment, long distance, and international service markets -- more choices and lower prices resulted. Local service is the final monopoly. Wireless has the potential of becoming a competitor in many segments of the local service marketplace -- but not when today's average cellular caller pays 3 cents per minute to complete a call on the local telephone company's network. Wireless will never be more than a niche or add-on market as long as the average wireline customer pays $19 for 1200 minutes of use and a wireless user must pay over $36 in LEC access charges alone for the same volume of usage. These charges by themselves are an insuperable barrier to wireless competing with local wireline service. That barrier should be removed.

Current Traffic Imbalances

B&K recognizes that people call and get called and thus that telephone traffic does and should go both ways. Originating and terminating wireless traffic flow is not balanced today, in large part because local telephone companies have little incentive to encourage calls to wireless. Thus, it is probably true that one transitional result of B&K will be to reduce revenues to LECs. But these amounts do not appear to be large, and the loss should be made up quickly by the general growing volume of calls to wireless phones, and by simple supplementary services LECs can offer related to wireless phones (e.g. directory assistance for wireless numbers, call completion to wireless numbers, etc.).

We believe that the removal of today's regulatory skewing will mean that two-way traffic will balance out income to telephone providers. Competition will force down prices and increase services, thus benefitting consumers. But it will also increase overall demand and revenue which will benefit both new competitors and incumbent providers -- as it has done in all other communications markets after competition was introduced.

What is the Alternative?

The current one-sided system of charges will clearly be replaced. Theoretically, "mutual compensation" could be justified. But what is the "right" price? Should the Commission set an individual price based on the costs of every carrier (wireline and wireless)? If one price is set for all, it seems clearly arbitrary. In either case, there will be long, drawn-out regulatory battles over the "right price" of interconnection. And for what purpose? If, over time, traffic patterns equalize, the market will take care of "fair" compensation -- and consumers can benefit from savings from avoided regulatory transaction costs.

Jurisdictional Issues

We have great respect for the role of state PUCs in telephone regulation. However, the unique statutory system for wireless, and the multi-state nature of the PCS MTA license areas, which is relatively closely matched by the practical service areas which have developed for cellular service, make it appropriate for the Commission to make this decision.

Timing

We support rapid implementation of B&K, at least on an interim basis. We do not object if some parties want to conduct in-depth cost studies -- as long as that does not delay action. If traffic imbalances persist after several years, the Commission can always revisit this issue.

Respectfully yours,

International Communications Association

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cc: Regina Keeney, Common Carrier Bureau
Michele Farquhar, Wireless Bureau

WASHINGTON STATE
FARM BUREAU

May 3, 1996

The Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, DC 20554

Re: Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers (CC Docket No. 95-185)

Dear Chairman Hundt and Commissioners Quello, Ness and Chong:

On behalf of the members of the Washington State Farm Bureau, we hardily endorse the Commission's proposal to adopt a "bill and keep" system for interconnection between wireless and wireline carriers. Your proposal makes sense for the United States in general and especially for rural Americans.

Even more rapidly than the rest of the country, rural Americans are turning to wireless technologies to meet their communication needs. Our members spend large amounts of time in their fields, on the road or otherwise unconnected to the tether of wireline telephones. As a result, wireless has become an integral part of rural life as it permits ready communication where none existed before.

Now family members can call one another and farmers and ranchers can conduct business from remote locations, such as their tractor. Perhaps, most importantly, wireless phones have become necessary emergency equipment which can make the difference in life and death situations.

The "bill and keep"system used by adjoining local telephone companies for decades has helped them grow and prosper, and should do the same for wireline and wireless services. We believe that the FCC's proposal will make wireless communications more affordable and more accessible for rural Americans.

We hope that wireless service will become a competitor to the local landline telephone companies in rural areas. Local telephone companies have served rural America well, but it is no secret that setting up poles and stringing wires in rural areas is costly. As a result, while the 1996 Telecommunications Act in theory opens local service to competition, it will be a long time, if ever, before wired competition comes to sparsely populated rural areas.

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FAX (360) 357-9939

We understand that some local telephone companies are worried about facing competition f
the first time, but fair and open competition is the American way. There is no reason that ru
consumers should be deprived of the benefits urban America will so quickly receive as CA
cable companies and others offer local telephone alternatives.

We urge the Commission to adopt "bill and keep" as soon as possible. The sooner it is adopte
the sooner current customers will see their wireless bills reduced, and new wireless carriers w
be able to get their systems up to competitive speed. Once the new, and current, wirele
carriers are put on a more equal footing with the local exchange carriers, we in rural Ameri
will see the kind of competition that all of America deserves.

Sincerely,

Steve Appel

Steve Appel
President

c: Michele C. Farquhar, Wireless Bureau
Regina M. Keeney, Common Carrier Bureau
William F. Caton, Acting Secretary

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

In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket 95-185

REPLY COMMENTS OF TRACER

Introduction and Summary

As an association of significant users of wireless and landline telecommunication services, the Washington Telecommunications Ratepayers Association for Cost-based and Equitable Rates ("TRACER") strongly supports the Commission's tentative conclusion to adopt "bill and keep" as the appropriate compensation mechanism for interconnection between Commercial Mobile Radio Service ("CMRS") providers and Local Exchange Carriers ("LECs").

TRACER has a long history of intervening in proceedings similar to this one before the Washington Utilities and Transportation Commission ("WUTC"), arguing in favor of policies that encourage competition in the local exchange market and prevent incumbent LECs from abusing their market power. TRACER members strongly believe that competition is capable of doing a better job than regulation of achieving public policy goals of lowering the prices consumers must pay, improving service quality, and spurring greater innovation. However, in order for competition to be successful at achieving these goals, it is essential that rational interconnection policies be adopted. If new entrants are burdened with unnecessarily high interconnection costs, competition will effectively be precluded from providing any meaningful downward pressure on rates.

Consistent with its desire to see an effectively competitive market develop for all telecommunications services, TRACER recently argued successfully that the WUTC should adopt "bill and keep" for interconnection between incumbent LECs and Competitive Local Exchange Carriers ("CLECs").[1]

Bill and keep should also be adopted for interconnection between landline and wireless providers. The present compensation system, under which unjustified, one-sided cash payments are made to LECs for terminating traffic, imposes an unnecessarily high cost on existing CMRS providers, which, in turn, represents an especially high barrier to new entrants (providers of Personal Communication Services (PCS)). TRACER firmly believes it is not in the public interest.

The cost savings realized from a bill and keep policy will allow CMRS carriers to better position themselves as competitors in the local exchange market, as many PCS carriers apparently intend to do. It is clear, especially given the analysis in the initial comments, that LECs not only have the motivation to

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[1] <u>Washington Utilities and Transportation Commission v U S WEST Communications, Inc.</u>, Docket No. UT 941464. The WUTC issued an order requiring incumbent LECs and CLECS, on an interim basis, to exchange traffic on a bill and keep basis

Ater Wynne [illegible] & [illegible], P.C.
[illegible]

prevent such competition through inflated interconnection rates, but have acted consistent with this underlying motivation.

TRACER urges the Commission to put an end to the unfairly imbalanced existing interconnection bargaining process by adopting a bill and keep compensation scheme for LEC/CMRS carrier interconnection.

I. GENERAL COMMENTS.

TRACER is a 12-year-old organization representing a number of the State of Washington's largest telecommunications users, primarily before the WUTC. TRACER's members include large entities engaged in the manufacturing, timber products, financial service, and health care service industries.

While TRACER is hopeful that the Telecommunications Act of 1996[2] ("1996 Act") will make it possible for meaningful local exchange competition to develop, it believes this independent proceeding to be of substantial significance and worthy of expedited consideration. The full development of the wireless industry, particularly PCS, is dependent on carriers' ability to devise and carry out business plans to activate their systems. Major Trading Area ("MTA") licensees have already paid nearly $8 billion just for the right to offer service. They are currently investing billions more to build out their systems to bring two more facility-based wireless carriers to every market. Basic Trading Area ("BTA") licensees will soon be determined and will face similar financial and operational challenges. These PCS

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[2] Public Law No. 104-104, 110 Stat, 56 (1996).

SUMMARY OF FEDERAL EXECUTIVE AGENCIES'
INITIAL FILING IN CC DOCKET 95-185

Summary

While the Telecommunications Act of 1996 excludes CMRS providers from the definition of Local Exchange Carriers, the Commission should adopt policies and principles regarding CMRS interconnection that are consistent with the new regulatory environment created by the Act.

The Act calls for mutual and reciprocal compensation by carriers for the added costs of transporting and terminating calls on each other's networks. Because of the distinctive cost structure of CMRS systems, and because some CMRS providers charge their subscribers for terminating calls, this principle virtually requires "bill and keep" arrangements for local switching and subscriber access. Dedicated transport should be charged flat, cost-based rates, and the alternative mode of access to the local switch, tandem switching and transport, should be charged according to cost-based usage rates, preferably based on peak hour traffic. For LECs, the Act calls for carriers to negotiate interconnection terms, conditions and rates in agreements that will be filed with, and approved by, the state commissions in conformance with principles enunciated in Commission rules. The same general procedure should be followed for CMRS/LEC agreements, with the proviso that any carrier may receive the most favorable rates available to any other similarly situated carrier. All agreements should be made public.

The Act does not allow for different interconnection rates to be charged for different types of calls. Accordingly, the Commission should not apply interstate access charges to CMRS traffic. The same rates and charges should apply to toll and local calls, and to interstate and intrastate calls.

Finally, the Commission should recognize that the various forms of CMRS services will compete with each other. Whatever regime the Commission adopts must therefore apply to all CMRS providers of two way, point-to-point services.

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LEC-CMRS Interconnection WHITE PAPER No. 5
First Series

WHY HAVE SOME REGULATORS PREJUDGED -- AND DISMISSED -- WIRELESS COMPETITION?

July 18, 1996

Why Have Some Regulators Prejudged -- and Dismissed -- Wireless Competition?

It's an open secret that some regulators don't believe that the FCC should act to support wireless competition with the local telephone companies. Even though the Telecommunications Act of 1996 states that it is national policy to favor competition throughout the telecommunications industry, these regulators would like to ignore the fact that the Act doesn't grant the FCC the authority to selectively disregard this Congressional mandate.

Specifically, these regulators dismiss the possibility of wireless competition with local telephone companies, and therefore deny that the FCC should entertain any proposals which promote parity between wired and wireless providers. Just as they refused to live up to the FCC's decade-old policy of co-carrier status for wireless service providers, they have concluded that the mandates of the Omnibus Budget Reconciliation Act of 1993 and the Telecommunications Act of 1996 simply are not warranted. Rather than implement the broad principles of parity and reciprocity both implicit and explicit in these policy statements, they seem to call for a policy of technological discrimination that, in effect, reduces customer choice and preserves a LEC monopoly.

A Pro-Monopoly Conclusion is Self-Fulfilling

This not only ignores the mandate of Congress, it puts the cart before the horse. It is a conclusory judgment; and a self-fulfilling proposition. The effect of such a conclusion and the policy that grows from it is protectionism for the existing LEC industry at consumers' expense. Ironically, LEC representatives have mischaracterized this protectionism as warranted to prevent an "unfair" advantage for wireless -- ignoring the fact that wired systems have acted in ways that flout the FCC's co-carrier policy, and that wireless carriers' reciprocal termination proposals are predicated upon establishing parity between wired and wireless systems by applying identical practices reciprocally.

The premature conclusion that LEC-wireless competition is impossible echoes another premature conclusion made by the FCC twenty-two years ago. At that time, the FCC concluded that cellular should be a LEC-owned monopoly because: "a cellular system is technically complex, expensive, and requires a large amount of spectrum to make it economically viable," and "as these systems will require extensive interconnection with the wireline telephone system, and nation-wide compatibility is desirable, . . . only wireline carriers should be licensed to operate them." *Second Report and Order, Land Mobile Services,* 46 FCC 2d 753, 760 (1974).