

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CC Docket No. 96-61

Policy and Rules Concerning the)
Interstate, Interexchange)
Marketplace)
Implementation of Section 254(g))
of the Communications Act of)
1934, as amended)

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AT&T Reply to Oppositions to
Petition for Reconsideration

Pursuant to Section 1.429 of the Commission's
Rules, AT&T Corp. ("AT&T") replies to the oppositions to its
September 16, 1996 Petition for Reconsideration
("Petition").

AT&T's Petition showed that both market theory and
actual market experience demonstrate the compelling need to
provide national carriers with the flexibility to offer
lower prices when they face competition from regional
carriers. AT&T's principal interexchange competitors echo
the need for such flexibility, because they too recognize
the significant handicap that an unduly strict application
of Section 254(g) places on national carriers. Predictably,
however, a number of LECs recognize the competitive
disadvantage that that section imposes on the largest
national IXCs compared to regional LECs and urge the
Commission to apply the rate averaging and rate integration

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requirements, even when competitive conditions do not justify it.¹

Sprint (p. 7) supports AT&T's request that the Commission forbear from enforcing Section 254(g) "where national carriers must compete in identifiable geographic markets against interexchange carriers that choose to offer service only in those markets."² As Sprint (p. 6) recognizes, "[i]t is a perversion of the overarching goals of the Telecommunications Act of 1996 to utilize the provisions of Section 254(g) to thwart such competition."³ In addition, MCI (n.10) points to the "significant tension" between Section 254(g) and the overall pro-competitive thrust of the 1996 Act, and it correctly states that "if some competing carriers are constrained to include costs in their pricing that others do not incur because of their localized operations, they will effectively be eliminated

¹ See, e.g., Pacific, p. 8, RTC, p. 4, USTA, p. 3. Notably, however, the LECs identified in AT&T's petition as the current competitors whose behavior shows that flexibility is necessary do not oppose AT&T's petition. SNET (p. 2) "takes no position" on AT&T's specific request, and Alltel made no filing at all.

² This debunks Pacific's argument (p. 2) that there are "no regional carriers" because all interexchange carriers must offer nationwide terminating services. The disparate competitive situation exists because of some carriers' decisions to provide originating service only from selected areas.

³ See also MCI, p. 4.

from competing. In these instances, consumers lose, and the Nation's pro-competitive policies will suffer irreparably."

AT&T's Petition (pp. 2-5) provided concrete evidence that the current averaging rules give regional competitors -- especially incumbent LECs -- significant unearned advantages that cannot be matched by national carriers.⁴ Accordingly, it is appropriate to permit national carriers to offer lower prices, either in general rates or in promotions lasting longer than 90 days, in order to give consumers the greatest opportunities for effective competition.

Contrary to the opponents' claims,⁵ granting forbearance under such circumstances would not allow national carriers to raise their prices elsewhere. The use of a geographically-specific lower rate in one place does nothing to reduce the extremely high level of competition among IXCs elsewhere -- competition that is so intense that the Commission has decided to forbear generally from the

⁴ Thus, in contrast to some opponents' arguments that different carriers have different marketing advantages (see, e.g., Hawaii, p. 5), the advantages here are solely a function of regulatory rules, not competitive actions in the marketplace.

⁵ E.g., Pacific, pp. 7-8.

tariff filing requirements of Section 203.⁶ Accordingly, as shown in AT&T's Petition (pp. 7-9), the forbearance AT&T seeks here, i.e., the right to lower but not raise rates in response to regional competition, meets all three prongs of the Section 10 test.⁷

For the same reasons, Hawaii and Alaska's oppositions ironically ignore that rigid enforcement of Section 254(g) can only result in higher prices for consumers in those states. Both Hawaii and Alaska are served by fewer interexchange competitors than other states.⁸ By limiting AT&T's ability to offer lower (but not higher) prices specifically for consumers in those states, AT&T cannot compete effectively against the "package" prices offered by its regional competitors. For example, in some circumstances, GCI offers its customers calling card rates that do not include any surcharges. Under current rules, Alascom could not compete by reducing its own calling card

⁶ "FCC Relieves Long Distance Companies from Tariff Filing Requirements," CC Docket No. 96-61, Report No. 96-94, released October 29, 1996.

⁷ See also, MCI, p. 4, Sprint, p. 3.

⁸ Hawtel, the incumbent (and only facilities-based) LEC in Hawaii, has recently begun offering a complete package of local, interexchange and international services to Hawaii consumers. In Alaska, General Communications, Inc. ("GCI") is the only significant interexchange competitor to AT&T's Alascom subsidiary.

surcharges in Alaska unless AT&T lowered its calling card surcharges for all customers nationwide.

The Commission's decision to limit geographically specific promotions to 90 days or less also creates competitive problems for national carriers, especially if a broader form of forbearance is not applied. When promotions are so limited, competitors can market against them easily by pointing to their very temporal nature. Application of the Commission's prior standard for promotions -- which would clearly be permissible in light of the legislative history of Section 254(g) (see AT&T Petition, p. 10) -- would at least give consumers a broader choice of better offers from all carriers, both regional and national.

WHEREFORE, for the reasons stated above and in AT&T's Petition, the Commission should reconsider its Order and permit national carriers to offer geographically-specific rates when they face competition from regional carriers, and they should also be permitted to offer

geographically-specific promotions of up to 24 months in such circumstances.

Respectfully submitted,

AT&T CORP.

By



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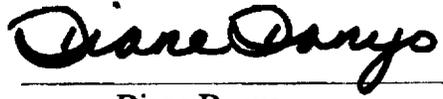
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Certificate of Service

I, Diane Danyo, do hereby certify that a true copy of the foregoing AT&T Reply to Oppositions to Petition for Reconsideration was served this 31st day of October, 1996, by United States mail, first class, postage prepaid, upon the parties shown on the attached Service List.



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