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

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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CC Docket No. 96-61

**AT&T OPPOSITION TO AND COMMENTS ON PETITIONS
FOR RECONSIDERATION AND CLARIFICATION**

Pursuant to Section 1.429 of the Commission's Rules, AT&T Corp. ("AT&T") opposes the petitions for reconsideration of RTC and TMIS and comments upon other petitions for reconsideration and/or clarification of the Commission's Detariffing Order¹ that were filed herein on December 23, 1996.²

¹ Second Report and Order, FCC 96-424, released October 31, 1996 ("Detariffing Order").

² Petitions were filed by AT&T; the Ad Hoc Telecommunications Users Committee, et al. ("Ad Hoc"); American Petroleum Institute ("API"); Frontier Corporation ("Frontier"); General Communication, Inc. ("GCI"); SDN Users Association, Inc. ("SDN Users"); Rural Telephone Coalition ("RTC"); Telco Communication Group, Inc. ("Telco"); Telecommunications Management Information Systems Coalition ("TMIS"); Telecommunications Resellers Association ("TRA") and Western Union Communications, Inc. ("Western Union").

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Introduction and Summary

As AT&T showed in its own petition for reconsideration (p. 3), a wide variety of commenters including carriers, consumer groups and NARUC, supported permissive detariffing and vigorously opposed mandatory detariffing. Indeed, the record showed that mandatory detariffing would impose significant costs on carriers and their customers with no countervailing benefits that would not otherwise be available through permissive detariffing. Some of the petitions for reconsideration reiterate these points³ and show that it would be reasonable for the Commission to reconsider its original ruling and adopt permissive detariffing as the general rule.

Even if the Commission denies these petitions, however, it should clearly reject the petitions of RTC and TMIS, because they would impose even more rules and costs on nondominant IXCs without providing substantial benefits for consumers. These petitioners' requests are contrary to the Commission's fundamental (and generally appropriate) deregulatory objectives in this docket and would require the

³ See, e.g., Frontier, *passim*; see also TRA, pp. 14-16 (proposing a permissive carrier-controlled electronic filing system that would resolve many of the specific issues the Commission discussed in the Detariffing Order).

adoption of additional rules that would force these carriers to incur even greater costs to achieve "less" regulation.

Other petitions show a clear marketplace need for specific modifications to the Detariffing Order if the Commission does not adopt permissive detariffing as the general rule. First, the petitions of Telco and Western Union demonstrate that carriers must be permitted to offer casual calling services under tariff in order to preserve them as viable options for consumers. For the same reasons, the Commission should also permit carriers to maintain tariffs that apply to the early stages of a carrier-customer relationship. Second, the petitions of API and the SDN Users show that customers believe it is important for the Commission to treat the detariffing of the international portion of bundled service offers in the same way it treats the detariffing of domestic services.

I. The Commission Should Not Establish Additional Information Requirements For Detariffed Services.

RTC and TMIS ask the Commission to increase carriers' burdens and costs by imposing additional information requirements in conjunction with detariffing. Specifically, RTC (pp. 4-5) asks the Commission to require all IXC's to establish on-line databases, to file copies of information on all their services in at least two places in each state, and to provide certified copies of service

information on request. TMIS (p. 3) provides a specific list of information which they argue carriers must make available to the public within one day of the date that new rates, terms or conditions become available, and it proposes that the public must be able to "physically obtain the information on the same day it is requested -- not for example, several days later in the mail."

As shown by many parties, the costs of mandatory detariffing are substantial and will impose substantial burdens upon IXCs, particularly the costs of establishing and maintaining contractual relations with all of their customers.⁴ Despite RTC's and TMIS' claims, there is no reason to require carriers to add to those burdens. Prior Commission requirements under the tariffing regime, as well as the Commission's new rules, only require carriers to maintain one set of service information for public inspection. RTC, however, would require carriers to bear the costs of maintaining separate and identical sets of service information in over 100 locations across the country. This request should be rejected.⁵

⁴ See Frontier, pp. 7-8; AT&T Reply, CC Docket No 96-61, filed May 24, 1996, p. 3 (citing comments of other parties).

⁵ In addition, contrary to RTC's suggestion (pp. 5-6), the Detariffing Order does not compel any specific result in the Commission's ongoing universal service and access

Similarly, the Commission should reject the detailed requirements proposed by TMIS, especially its demand that carriers use expedited delivery mechanisms to fulfill customer requests for service information. TMIS offers no support for its claim that information provided through such ordinary commercial channels is insufficient to serve customers' needs.⁶

II. The Commission Should Grant Telco's and Western Union's Petitions and Permit Carriers To File Tariffs To Serve Customers With Whom They Do Not Have Established Relationships.

Telco's and Western Union's petitions show why it is necessary to permit carriers to file tariffs to serve customers with whom they do not have established relationships. As Telco (p. 3) states, it is not clear that the implied in fact contract theory on which the Commission relies in the Detariffing Order is sufficient in all cases to create a legally binding payment obligation on casual

(footnote continued from previous page)

reform proceedings. More important in this context, any relationship between detariffing and universal service or access reform is properly the subject of those other dockets.

⁶ In all events, petitioners' concerns about a possible lack of information are speculative. Carriers eager to serve customers will willingly make information available to customers who are interested in buying their services, typically through telephonic communications.

users. And even if such theories or similar ones ultimately prevail -- as they should -- carriers will have to bear significant costs to establish a right to recover that would be unquestioned if they could file tariffs for the same services.⁷ Indeed, as Western Union shows (p. 2), the increased financial risks and costs of detariffing may even cause some types of communications services to be withdrawn from the marketplace. Allowing carriers to file permissive tariffs for casual calling (and similar) services will thus benefit consumers by giving them choices that may not be available under mandatory detariffing.

The rationales offered by Telco and Western Union apply equally to calls placed during the initial period of a relationship between a carrier and customer when the contract is being formed.⁸ Therefore, the Commission should also permit carriers to file tariffs covering the initial stages of a carrier-customer relationship, in order to assure that reasonable terms and conditions apply while the

⁷ See AT&T, p. 12 (tariffs are the only certain means to ensure that carriers' reasonable expectations are protected without resort to costly litigation). See also TRA, pp. 12-13.

⁸ See AT&T, pp. 9-13.

parties' contractual rights and obligations are being established.⁹

III. The Commission Should Grant Customer Petitions Requesting That Carriers Be Permitted To Treat Bundled Services As The Integrated Packages The Parties Intended Them To Be.

API's petition provides compelling reasons for the Commission to reconsider its decision to treat the detariffing of "bundled" international services separately from the detariffing of domestic services offered in the same service packages. As API (pp. 3-4) shows, any problem with the pricing for the international portion of bundled service packages is the inflated accounting rates which the Commission is now attempting to reduce,¹⁰ not the highly competitive activities of domestic carriers. Indeed, the vigorous competition to provide bundled service packages is confirmed by API and SDN Users, the very customers who others claim need the protection offered by tariffs.

API (pp. 7-8) specifically agrees that tariffing of the international portion of bundled service offerings

⁹ AT&T also agrees with TRA that the Commission should not impose "filing fees" on carriers who are required involuntarily to withdraw tariffs. As TRA (pp. 16-17) notes, the refund principle of Section 1.1112(a)(4) of the Commission's Rules supports a decision not to require carriers to pay to remove rather than "file" tariffs.

¹⁰ International Settlement Rates, Notice of Proposed Rulemaking, FCC 96-484, released December 19, 1996.

"is not necessary to protect consumers," because detariffing is a strictly "neutral factor" in its members' purchasing decisions. The SDN Users (p. 1) state that "as a result of vigorous competition in this market, there is no policy reason not to allow detariffing of individual customer arrangements containing international services." Moreover, substantial customer confusion has arisen from the Commission's order requiring bifurcated treatment of services that were sold as part of an integrated package.¹¹ This provides yet another important reason why the Commission should reconsider this aspect of the Detariffing Order and permit carriers and customers to treat a bundled service package as the single item it was intended to be.¹²

¹¹ See AT&T, pp. 13-17, API, p. 8 (referencing the "artificial partition" the Detariffing Order creates between tariffed and detariffed contract provisions); SDN Users (p. 1) (including international bundled services under the same rules as the domestic component "would simplify the negotiation process"). See also, API, pp. 8-9 (describing how each of the Commission's public interest reasons for requiring detariffing is applicable to the detariffing of the international portion of bundled service offerings).

¹² AT&T also concurs with Ad Hoc (pp. 3-6) that nothing in the Detariffing Order requires nondominant IXCs to file tariffs for the provision of local access services. As Ad Hoc shows, such a requirement would be inconsistent with prior Commission rulings, and it would create a practical nightmare. Finally, AT&T does not interpret the Detariffing Order to require the detariffing of Alascom's Common Carrier Services (see GCI, p. 1).

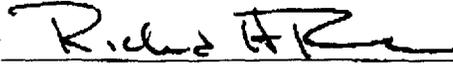
Conclusion

For the reasons stated above, the Commission should: (1) deny the petitions of RTC and TMIS because they impose unnecessary additional burdens on carriers; (2) grant the petitions of Telco and Western Union, permitting carriers to file tariffs for casual calling services, and for similar reasons permit carriers to file tariffs covering the initial period of new service arrangements; and (3) grant the petitions of API and the SDN Users and permit carriers and customers to treat bundled services as integrated offers for tariffing purposes.

Respectfully submitted,

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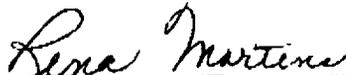
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January 28, 1997

CERTIFICATE OF SERVICE

I, Rena Martens, do hereby certify that on this 28th day of January, 1997, a copy of the foregoing "AT&T Opposition to and Comments on Petitions for Reconsideration and Clarification" was mailed by U.S. first class mail, postage prepaid, to the parties on the attached Service List.



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