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

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| In the Matter of | ) | |
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| Access Charge Reform | ) | CC Docket No. 96-262 |
| | ) | |
| Price Cap Performance Review for Local Exchange Carriers | ) | CC Docket No. 94-1 |
| | ) | |
| Transport Rate Structure and Pricing | ) | CC Docket No. 91-213 |
| | ) | |
| Usage of the Public Switched Network by Information Service and Internet Access Providers | ) | CC Docket No. 96-263 |

COMMENTS
of
FREDERICK & WARINNER, L.L.C.

January 29, 1997

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**Background**

Frederick and Warinner, L.L.C. (F&W) is a public accounting firm dedicated to providing services to the telephone industry. Our clients are mostly rural local exchange carriers (LECs) who are subject to rate-of-return regulation by the FCC and State Public Utility Commissions. For division of revenue settlements, we have developed PC programs designed to assist LECs in the allocation of costs using Part 36 and Part 69 of the FCC's rules and regulations. These cost allocation studies are used to determine interstate settlements with the National Exchange Carriers Association (NECA) and to set company-specific interstate access rates with the FCC. Representatives of F&W have performed in excess of three hundred of these

cost studies for clients of the firm over the past ten years. F&W has detailed knowledge of the rules as they relate to the allocation of costs for settlement and rate development purposes.

**Access Reform**

The need for access reform results from the introduction of competition in the local exchange marketplace. The current access charge system has worked well in a regulatory environment since its inception, but changes are now necessary to enable LECs to compete with alternative service providers within their respective service areas. In the Access Charge Reform NPRM, it is stated that "current access charges distort competition in the markets for local exchange access . . . creating incentives for IXCs to bypass the LEC switched access network for reasons that have nothing to do with the economics of operating an access network.[1/]" F&W believes that some of the mandatory access rate structures are inefficient which leads to uneconomic bypass by IXCs. F&W proposes modifications to the Carrier Common Line (CCL), Local Switching (LS) and Local Transport (LT) access charge elements to enable incumbent LECs to compete for these services against alternative service providers.

Competition, in and of itself, is not the only solution to the problems facing the telecommunications industry. While competition will benefit the high volume users of the communications network, it will create a whole new set of problems for universal service in rural America. As competition drives rates for services closer to costs, rates in lower density rural areas will be impacted dramatically as a significant part of these costs are fixed and recovery is

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1/ *Access Charge Reform NPRM* at ¶ 42.

targeted to a small customer base. These customers must be protected from the ills of competition and be guaranteed access to universal service at an affordable price. Any changes made by the FCC in the name of access reform must be analyzed carefully for the impact on universal service in rural America.

**Application of Reforms to Non-Price Cap Carriers**

F&W applauds the FCC's decision to implement a separate proceeding in order to deal with access reform for non-price cap carriers. The vast majority of non-price cap carriers are LECs with under 50,000 access lines who are subject to rate-of-return regulation. These companies generally provide communication service in rural America where competition will be slow to progress. However, F&W recognizes that reforms arising as a result of this proceeding will undoubtedly affect all local exchange carriers providing interstate access services.[2/] In the Access Charge Reform NPRM, the FCC states that "we propose to apply to all incumbent LECs the rules discussed in Section VII.A, which addresses allocation of universal service support to the interstate revenue requirement, and Sections III.D and E, which propose reforms to the transport rate structure, including the transport interconnection charge (TIC).[3/]" Universal service will most likely be impacted by proposed reforms to the CCL and TS access charge rate structures as well.

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2/ *Access Charge Reform NPRM* at ¶ 51.

3/ *Access Charge Reform NPRM* at ¶ 53.

**Applicability of Part 69 Unbundled Elements**

The FCC seeks comment on the tentative conclusion that requesting carriers, who purchase unbundled network access to originate and terminate interstate calls, not be required to pay the Part 69 access charges corresponding to the elements purchased. We could not disagree more with this conclusion. Of the LECs that we represent, approximately sixty percent of total revenue is derived from state and interstate access charges. Requesting carriers should be able to order unbundled network access for the provision of local exchange service; however, toll access should reside with the facilities-based provider unless specifically ordered by the requesting carrier subject to the payment of toll access charges. LECs can ill afford to lose this revenue stream.

**Carrier Common Line**

Existing access charge procedures provide for the partial recovery of the cost of the local loop through a traffic-sensitive carrier common line charge. F&W agrees with the Joint Board in its Recommended Decision that a traffic-sensitive CCL charge is inappropriate because local loop costs are generally fixed.[4/] F&W would propose that NTS loop costs be bulk billed to carriers based upon their percentage share of interstate minutes of use.

The proposal to eliminate the SLC cap for lines used by multi-line business customers and residential lines beyond the primary residential line would be devastating to the growth in urban and rural communities alike. The most significant factor creating the demand for

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[4/] *Joint Board Recommended Decision* at ¶ 776.

additional lines today is the Internet. Rural communities are pleading for access to the Internet at a reasonable cost. In most instances, the incremental cost to add a second line to an existing residence is minimal and represents the cost of a line card in the central office. Increasing the SLC for these lines would be contrary to public policy and cost-based pricing. F&W recommends that all NTS loops be charged the same subscriber line charge so as not to impede access line growth.

**Local Switching**

Local switching costs are currently aggregated into a single category and recovered through a traffic-sensitive access charge. F&W agrees that a significant portion of local switching costs do not vary with usage. Costs associated with line cards or line-side ports vary with the number of lines connected to the switch, not with the level of traffic over lines. F&W recommends that any proposed method of change in the recovery of local switching costs be addressed by the Joint Board through the expansion of Parts 36 and 69 categories related to non-traffic-sensitive local switching equipment. Prior to the implementation of Part 36 allocation procedures, non-traffic-sensitive switching costs were identified separately and allocated between jurisdictions using a different ratio than traffic-sensitive switching costs.[5/] The consolidation of traffic-sensitive and non-traffic-sensitive local switching costs was accomplished during the rewrite of FCC Parts 31 and 67 into the new FCC Parts 32 and 36 accounting and cost separations procedures. The consolidation was made largely because of the

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[5/] Former Part 67 Jurisdictional Cost Separations at ¶¶ 67.132-67.140.

introduction of digital switching equipment which made it difficult to distinguish between traffic-sensitive and non-traffic-sensitive switching costs.

If line cards or line-side ports are to be recovered using a flat rate charge, we recommend that separate categories be created within central office equipment, Category 3, Local Switching Equipment to identify non-traffic-sensitive from traffic-sensitive switching costs within the separations process. Adding a category or subcategory for the cost of line cards and the related NTS equipment would also help LECs meet the requirements imposed by the interconnection order for separately identifying port costs; the category would also assist companies in determining which costs may be recovered from the new changes being considered in the USF Notice of Proposed Rule Making.[6] Additional categories should also be considered for further identification of COE equipment costs related to use or function. In some cases, the tandem switching equipment for small LECs is determined based on a ratio of tandem toll through switched minutes to total switching minutes multiplied by total investment in COE, Category 3.0. If a portion of COE Category 3.0 is related to NTS costs, then an equal portion of the tandem switching costs should also be NTS and an additional category should be added for these costs. SS7 costs currently included in COE Categories 3 and 4.23 should also be assigned to a separate COE category to assist in identifying SS7 call setup charges. We believe additional categories are warranted to identify these costs for the purpose of developing cost-based rates.

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[6] *Universal Service NPRM* at ¶¶ 29-30.

F&W supports a separate charge for SS7 call setup. Historically, these costs were borne to create efficiencies within the toll networks. By performing call setup prior to the dedication of a trunk for voice traffic, LECs required fewer trunks to complete voice traffic. These efficiencies were passed on to IXCs in the form of lower access charges. F&W believes that SS7 costs can be readily identified from the records of LECs for the establishment of cost-based rates and recommends that this issue be assigned to the Joint Board for further review and analysis.

F&W does not support a policy that mandates the use of off-peak pricing for shared local switching facilities. We agree with the FCC's previous decision to allow LECs to implement off-peak pricing on an optional basis subject to the limitations within their recording and billing systems.[7]

**Transport**

In the Access Charge Reform NPRM, the FCC seeks comments on whether to revise the facility-based components of the existing transport rate structure.[8] Specifically, the FCC seeks comments on the phase-out of the TIC and the division of the transport structure into three parts: (1) charges for entrance facilities; (2) charges for direct-trunked transport; and (3) charges for tandem-switched transport. The charges for entrance facilities and direct-trunked transport are presumed reasonable if they are based on rates for comparable special access services.[9] The per-

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[7] *See Local Competition Order* at ¶¶ 756-757.

[8] *Access Charge Reform NPRM* at ¶ 84.

[9] *First Transport Order*, 7 FCC Rcd at 7034-35.

minute tandem-switched transport transmission charge is based on assumptions about monthly DS1 and DS3 usage.[10] Finally, a non-cost-based TIC charge was established to enable LECs to generate the same amount of transport revenue under the new transport rate structure as generated under the previous transport rate structure.[11] The TIC charge accounts for some seventy percent of incumbent LEC transport revenues.

F&W believes that the problems surrounding the TIC charge result from the inequities within current separations procedures in determining switched versus special access transport revenue requirements. The most significant problem in existing separations procedures involves the definition of circuit terminations when allocating costs between switched and special access services. We believe the current industry method of counting terminations over allocates costs to message trunking facilities and under allocates costs to special access.

Most telephone companies provide MTS services over facilities equivalent to a special access DS-1. Even though some IXCs order direct trunk transport facilities, the terminations are counted based on each circuit channel or trunk, not the facility provided. In the case of jointly used facilities , the equipment is still provided in an efficient manner by the LEC by filling up one carrier system with message circuits based on peak demand studies before another system is added and additional channels turned-up. In rural areas, special access transmission systems are rarely filled to capacity because of a lack of demand and the need to allow for redundant

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[10] *First Transport Order*, 7 FCC Rcd at 7036-37.

[11] *First Transport Order*, 7 FCC Rcd at 7038.

protection. The cost of this transmission equipment is allocated on the basis of actual terminations which is heavily weighted to switched transport. As switched transport facilities are priced based on the lower cost of special access circuits, a large shortfall is created which has been included in the residual costs for development of the TIC charge.

We therefore propose that an "equivalent" termination count be used for message circuit equipment in COE Category 4.23 that more appropriately reflects how central office transmission costs are incurred. Rural LECs have indicated that there is no difference in provisioning a DS1 for special access as provisioning a DS1 for switched access. With that assumption, the same termination counts should be used in Part 36 to allocate costs between switched and special access service.

Currently, we accomplish this "equivalent termination count" in allocating special access costs between services based on the tariffed rate differentials. Assuming NECA's rate differentials are based on underlying equipment studies, we divide a DS1 Channel Termination rate of $176.25 by the Voice Grade two-wire Channel Termination rate of $33.89 to get a weighting of 5.2.[12] This weighting factor would then become the equivalent termination to be used for a full capacity message carrier system.

The results of changing terminations to an equivalent count is two fold. This would allocate more costs to special access and less to switched access (Part 36 private line and message toll). As a result, we believe special access costs will become closer to those

[12] Amounts derived from NECA Tariff FCC No. 5, Effective July 1, 1996.

determined using LRIC studies. We also believe the message toll costs being allocated to the various transport elements will be reduced. If the higher special access rates are then used in determining entrance facilities and direct trunk transport rates, then the remaining tandem switched transport revenue requirement that is recovered by TIC will be greatly reduced. Also, the tandem switched termination rate will be higher using a special access equivalent divided by assumed MOU, thereby reducing the revenue to be recovered under TIC even more. The second factor contributing to the understatement of tandem switched transport rates is the assumption that only twenty percent of the tandem switching revenue requirement be used to develop the per-minute-of-use tandem switching charge, and the use of an assumed 9,000 minutes of use per voice grade circuit per month. F&W supports previous comments of USTA that the actual usage on tandem circuits is far less than the 9,000 minutes assumed by the Commission. Rural LECs that we work with often reflect usage that is only half of the assumed 9,000 minutes of use per month adopted by the Commission. F&W recommends that the FCC re-analyze the use of the assumed 9,000 minutes of use per month for rural LECs.

**Internet Services**

It is obvious to the telephone industry that Internet service providers are connecting networks across state lines. We believe the commission should look at the future impact the Internet will have on access once the availability of voice services over the Internet expands.

The current capacity demands the Internet is putting on the local networks of the LECs should be considered in the FCC's decision-making process. Will all the costs of increasing local network capacity be born by the local rate payer? Should all local rate payers pay for these

services, or should only the users of the Internet pay for the local capacity upgrades needed to meet demand?

One possible solution to the problems created by the Internet would be for the Commission to have the Joint Board address this issue. If Internet costs are left to be recovered by local rates, then we have the following recommendations:

1. Create a separate class of service (besides B1) for ISP services. This would allow the LECs to segregate the ISP usage and have better empirical data related to the growth of the services. The ISP service line rates can still be tariffed at the same rate as B1 lines; and

2. Encourage LECs to recover the additional costs related to Internet from the Internet users themselves. This could be accomplished by tariffing a local "high usage charge" applied to customers who use excessive capacity above that designed for local use. Frontier Corporation has installed such a charge. What installing a charge like this would do is discourage people from connecting to the Internet and then doing something else while connected. ISPs offer unlimited Internet access for a flat rate of about $20.00. This provides the LECs a way to recover revenue due to jurisdictional shifts the Internet usage is causing on traffic factors and eliminates pressure on local rates. Since ISPs would probably meet the "high usage criteria" per line, they would also be paying for the additional demands their services have put on the local network. Obtaining usage data would require the LEC to have local measured service capabilities.

The Commission has encouraged competition in the current proceedings. They should also keep in mind that local communities need ways to attract new business and users of enhanced services. Therefore, multi-line businesses and ISPs should not be excluded from the formula used to determine USF fund distributions. Whether incumbent LECs or new entrants, the suppliers of service carried on the local network may need a mechanism to encourage network upgrades.

**Conclusion**

F&W recommends changes to Part 36 categorization procedures of COE which could help identify jurisdictional costs that would more easily flow into the rate classifications discussed for access services.

F&W recommends that "equivalent terminations" be established for allocating costs between switched and special access, and then the higher special access rates should be used in developing transport element rates.

F&W recommends that the Commission reexamine their use of an assumed 9,000 minutes of use for the pricing of tandem switched transport services. Using a lower number of minutes of use will increase the tandem switched transport charge and lower the amount allocated to the transport interconnection charge element.

F&W believes not all TIC charges can be eliminated.

F&W believes if the Internet usage is not assessed access charges, then the Joint Board should review and provide recommendations to the state regulators on how to identify Internet

usage and how to have the end users on the net and the ISPs pay for the costs of providing these services.

Respectfully submitted,

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