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

In the Matter of)

IB Docket No. 96-261

RECEIVED

International Settlement Rates)

MAR 31 1997

TO: The Commission

Federal Communications Commission
Office of Secretary

**REPLY COMMENTS OF
SINGAPORE TELECOMMUNICATIONS LIMITED**

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SUMMARY

Like the large majority of the parties that filed initial comments in this proceeding, Singapore Telecommunications Limited ("Singapore Telecom") opposes the FCC's proposals to unilaterally establish accounting rate benchmarks.

Singapore Telecom respectfully submits that the Commission does not have the authority to implement the NPRM's proposals unilaterally. The NPRM exceeds the Commission's jurisdiction under the Communications Act of 1934. Moreover, the NPRM is inconsistent with the FCC's obligations under international law and comity as reflected in the ITU Constitution and Regulations, and with the principles of Most Favored Nation and National Treatment under the WTO agreement. The Commission should forego its attempt to achieve unilateral reform, and continue its efforts within the appropriate international fora.

The NPRM's proposed benchmark methodology and transitional periods are inappropriate. The record shows that Total Service Long Run Incremental Cost ("TSLRIC") is not an appropriate cost model for establishing the lower benchmark level because the Commission does not have accurate and sufficient cost data and other countries have not accepted the methodology. The Commission should work with the ITU to develop a cost methodology and transitional schedule that will receive global acceptance and lead to the timely and reasonable adoption of more cost-based settlement rates.

The NPRM is based on a fundamental misunderstanding of the settlements imbalance. The record shows that the settlements imbalance is caused primarily by home country direct, callback, and refile services of U.S. carriers. These services generate substantial revenues for U.S. carriers, which more than offset any increase in settlement costs they cause.

In addition, the NPRM fails to distinguish between notional settlement rates and unit settlement payments. The notional settlement rate on a route does not reflect the per-minute settlement payments of U.S. carriers. Due to the netting process by which U.S. and foreign carriers calculate settlement payments to each other, actual settlement payments of U.S. carriers are usually significantly less than the notional settlement rate on a per-minute or unit basis. The effective settlement rate varies depending upon the ratio of incoming to outgoing traffic. Unit settlement payments therefore have no necessary link to the notional settlement rate or the foreign carrier's costs for terminating traffic. Further, reducing the notional settlement rate to benchmark levels will not necessarily result in lower unit settlement payments for U.S. carriers. By resulting in an increase in callback and refile services through the U.S., which in turn would increase the traffic imbalance, settlement rate reductions would lead to higher unit settlement payments.

Further, the Commission should require that U.S. carriers pass through to U.S. consumers any settlement rate reductions. The record shows that U.S. carriers have consistently increased collection rates as accounting rates have decreased. Absent a mandate from the Commission, U.S. carriers will not reduce collection rates in conjunction with reduced settlement rates.

Finally, truly comprehensive reform of the settlements system must include consideration of tariff practices for Internet services. U.S. carriers currently require foreign carriers to bear the cost of both of the international half-circuits required for Internet access. This is inconsistent with the traditional practice that carriers pay for their own half-circuits and unjustifiably benefits U.S. carriers at the expense of foreign carriers.

accounting rate reform, under the auspices of the International Telecommunications Union ("ITU"), will result in a globally accepted solution that will benefit all countries.

I. UNILATERAL IMPLEMENTATION OF THE BENCHMARK PROPOSALS IS UNWARRANTED AND IS INCONSISTENT WITH INTERNATIONAL LAW

Although some U.S. carriers argue that the FCC has the authority to implement the NPRM's benchmark proposals unilaterally, virtually all foreign commenters have shown that the NPRM exceeds the scope of the FCC's jurisdiction and violates principles of international law and comity.² Even Sprint -- which offers at best a qualified endorsement of the NPRM's proposals -- admits that if the Commission decides to implement the benchmarks it must "discuss more fully its jurisdiction to accomplish this."³ The Constitution and Regulations of the ITU require that accounting rates be established bilaterally: "administrations shall by mutual agreement establish and revise accounting rates to be applied between them."⁴ The NPRM's proposal to establish accounting rates unilaterally, and to take enforcement measures against carriers that do not comply with those rates, violates these well-settled ITU principles of mutuality and international cooperation.

Moreover, as many parties have noted, the proposals of the NPRM are inconsistent with the Most Favored Nation ("MFN") and National Treatment principles.⁵ Both

² See, e.g., C&W Comments at 2-10; Deutsche Telecom Comments at 5-9; KDD Comments at 2-7; P&T, China Comments at 1-2; GTE Comments at 10-15; HKTI Comments at 21-26; International Telecom Japan Comments at 3-12.

³ Sprint Comments at 4-5.

⁴ International Telecommunications Regulations, Article 6.2.1 (Melbourne, 1988)(emphasis added).

⁵ See, e.g., GTE Comments at 28-33; Government of Japan Comments at 4; KDD Comments at 25-27; Telintar Comments at 19-23. The MFN principle prohibits the
(continued...)

antidiscrimination principles are embodied in the new WTO global telecommunications agreement, to which the U.S. has agreed to become a signatory. The broad and ambiguous enforcement provisions of the NPRM, as well as the FCC's failure to show a cost justification for adopting the World Bank country classifications or prescribing disparate benchmarks for each classification, are particularly troubling from an MFN perspective. The FCC's proposal to permit U.S. carriers to charge settlement rates for terminating foreign-billed traffic in the United States that are admittedly higher than the FCC's estimate of the underlying costs is particularly troubling from a National Treatment perspective.

Singapore Telecom urges the Commission to focus upon the unprecedented international efforts now underway to reform the accounting rate system and, more broadly, the international telecommunications regime. Many parties have underscored the importance of the ITU's ongoing studies of the international settlements system, which have resulted already in the adoption of Recommendation D.140 -- to which the Commission itself makes reference throughout the NPRM -- and the issuance in November 1996 of a consultation document outlining a multilateral framework for accounting rate reform.⁶ More recently,

⁵(...continued)

Commission from discriminating among carriers of different countries; the National Treatment principle requires the Commission to treat carriers from other countries no less favorably than it treats U.S. carriers.

⁶ See, e.g., CANTO Comments at 2; C&W Comments at 2; COMTELCA Comments at 13-15; Cooperation Council for the Arab States of the Gulf Comments at 1; Deutsche Telecom Comments at 8-9; France Telecom Comments at 8-9; GTE Comments at 34; Government of Japan Comments at 1-2; Indosat Comments at 1; International Digital Communications Comments at 7; International Telecom Japan Comments at 6-9; KDD Comments at 13; P&T, China Comments at 2; Portugal Telecom International Comments at 10-13; SBC Communications Comments at 4-5; Telefónica del Perú Comments at 13; Telia Comments at 3-5; Videsh Sanchar Nigam Limited Comments at 3-4.

the Secretary General of the ITU invited comments on accounting rate issues to be submitted for use in Study Group 3 meetings, which are scheduled to begin in May 1997.⁷

Perhaps even more significant is the conclusion of the negotiations of the WTO's Group on Basic Telecommunications, which resulted in an agreement endorsed by 70 countries, including the United States. The WTO agreement opens virtually 100% of the world's major telecommunication markets to competition.⁸ As the FCC has noted and numerous commenters affirmed, increased competition in the global IMTS market is the most effective mechanism for reducing international settlement rates.⁹ Market forces have already been successful in driving down settlement rates on many routes. In light of these precedents, the unilateral action the FCC is considering is unnecessary. Indeed, the record indicates that continuing unilateral efforts by the Commission are likely to create friction and increased resistance to accounting rate reform, and therefore ultimately will be counterproductive.¹⁰

⁷ See HKTI Comments at n.35.

⁸ See Statement of Ambassador Charlene Barshefsky, Basic Telecom Negotiations, February 17, 1997, at 1.

⁹ See, e.g., NPRM at ¶ 20; European Union Comments at 1; France Telecom Comments at n.12; Government of Japan Comments at 2; Government of U.K. Comments at 2; Telintar Comments at 7-8.

¹⁰ See, e.g., International Telecom Japan Comments at 19; P&T, China Comments at 2-3 ("China Telecom will never accept any unilaterally stipulated 'benchmark' settlement rates and 'transition period.' Also, China Telecom will reserve the right to take certain countermeasures provided the FCC insists on doing so."); Telintar Comments at 7 ("foreign carriers. . . will not permit the FCC to dictate to them.").

II. THE BENCHMARK METHODOLOGY AND TRANSITIONAL PERIODS ARE INAPPROPRIATE

The record shows that the NPRM's proposal to use TSLRIC to establish the lower benchmark level is seriously flawed. As virtually every party that offered comments in this proceeding has pointed out, the FCC does not have accurate and sufficient cost data regarding the operations of foreign carriers upon which to base the benchmarks.¹¹ The Commission itself has admitted as much.¹² Only foreign carriers can estimate their costs for terminating an international call from the U.S., and the FCC lacks the authority to require foreign carriers to submit this information to the FCC. Moreover, the fact that most countries have not accepted the concept of TSLRIC makes the appropriateness of the benchmarks even more dubious. To the extent the FCC believes that TSLRIC is the appropriate cost model, the FCC should work through the appropriate multilateral fora to obtain the consensus necessary to implement that model within the framework of Recommendation D.140.

Further, numerous commenting parties show that the deadlines proposed by the NPRM for application of the benchmark rates are far too short.¹³ By contrast, Singapore Telecom notes with concern that some U.S. carriers have suggested that the Commission

¹¹ See, e.g., Deutsche Telekom Comments at 10-11; DGT Taiwan Comments at 2; France Telecom Comments at 10-12; GTE Comments at 23; HKTI Comments at 26-28; KDD Comments at 13-14; MCI Comments at 2-4; Pacific Bell Comments at 5; Sprint Comments at 13-15, 19.

¹² NPRM, ¶ 33.

¹³ See, e.g., C&W Comments at 14; France Telecom Comments at 13-14; GTE Comments at 17-22; International Telecom Japan Comments at 16-17.

implement the benchmarks on an even more rapid and inflexible schedule.¹⁴ Both the NPRM's proposed timeframes and the suggestions of U.S. carriers disregard the difficulties that many countries would face in response to an overly rapid transition towards FCC-prescribed settlement rate benchmarks. Singapore Telecom encourages the FCC to work with the ITU to develop a transitional schedule that will encourage the timely multilateral adoption of more cost-oriented rates, but also accommodate the needs of countries at all economic levels.

III. THE U.S NET SETTLEMENTS DEFICIT IS NOT CAUSED BY ABOVE-COST ACCOUNTING RATES

The record shows that the U.S. net settlements deficit is largely a result of services offered by U.S. carriers such as home country direct, callback, and refile services.¹⁵ Indeed, the FCC itself has acknowledged that these practices -- which it has supported -- contribute to the traffic imbalance.¹⁶ In addition, many commenters note that the settlements deficit must be considered in light of the substantial revenues generated by these practices.¹⁷ That the size of the settlements deficit is more than offset by new revenues undermines the Commission's justification for the NPRM's proposals.

¹⁴ See AT&T Comments at 14-20; MCI Comments at 6-8.

¹⁵ See, e.g., C&W Comments at 21-24; France Telecom Comments at 6-7; HKTI Comments at 13-14; KDD Comments at 7-8.

¹⁶ See NPRM, ¶ 12.

¹⁷ See, e.g., CANTO Comments at 5; KDD Comments at 11-12; Telintar Comments at 6.

IV. THE NPRM REPRESENTS A FUNDAMENTAL MISUNDERSTANDING OF THE DIFFERENCE BETWEEN NOTIONAL SETTLEMENT RATES AND UNIT SETTLEMENT PAYMENTS

In the NPRM, the FCC proposed to reduce settlement rates as a means of lowering the settlement costs of U.S. carriers. The comments prove that the FCC's approach is deficient from both an analytical and an empirical perspective. The NPRM rests upon the incorrect assumption that the notional settlement rate on a route accurately reflects the per-minute settlement payments of U.S. carriers. In fact, under an arrangement calling for a 50/50 division of tolls, while both the U.S. carrier and its foreign correspondent calculate and pay settlements on all inbound and outbound traffic, the netting process for making payments between the carriers yields the same result as if the U.S. carriers had paid the notional settlement rate only on the traffic imbalance. As a result, when total U.S. outpayments are spread over total U.S.-billed minutes on the route, the settlement payments of U.S. carriers are less, often significantly less, than the notional settlement rate on a per-minute or unit basis.¹⁸ Therefore, if the FCC's objective is to align the per-minute settlement payments of U.S. carriers with the costs incurred by foreign carriers to terminate U.S.-billed calls, it is irrational to focus upon the notional settlement rate. Put in other words, if the notional settlement rate on a route reflects the foreign carrier's termination costs, then the actual settlement payments of U.S. carriers will undercompensate foreign carriers by a significant amount on a per-minute basis.

¹⁸ Moreover, the unit settlement payments of U.S. carriers would be further reduced on the U.S.-Singapore route if reverse-billed and refile services were removed from the settlements process.

Moreover, there is no empirical basis for the FCC to conclude that reducing the notional settlement rate to the proposed benchmark levels will entail any reduction at all in the unit settlement payments of U.S. carriers. As several parties point out,¹⁹ the likely impact of the FCC's proposed benchmarks will be to generate a massive increase in callback and refile services through the United States to the detriment of numerous foreign carriers. The increase in the traffic imbalance caused by the benchmarks easily could offset the impact of the settlement rate reductions, thereby resulting in even higher unit settlement payments by U.S. carriers.²⁰ As a result, the FCC cannot conclude on the basis of the record in this proceeding that forcing settlement rate reductions will result in lower settlement payments by U.S. carriers, either on an absolute or per-minute basis.

Further, it bears emphasis that the unit settlement payments of U.S. carriers bear no necessary relationship to either the notional settlement rate or the foreign carrier's costs of terminating U.S.-billed traffic. The effective settlement rate varies depending upon the Incoming/Outgoing ratio. A high notional settlement rate will result in no settlement

¹⁹ **E.g.** Telefónica Comments at 36; CANTO Comments at 6-7; Telecommunications Authority of Singapore Comments at 2; KDD Comments at 9-11.

²⁰ For example, suppose that U.S. carriers generate 10 million minutes of U.S.-billed traffic on a route, while foreign carriers generate 9 million minutes of foreign-billed traffic on the same route. If the notional settlement rate is \$.40/minute, the total net settlement payments of the U.S. carriers would be \$400,000, or \$.04/minute. Now suppose that the foreign carriers agreed to cut the notional settlement rate in half to \$.20/minute, and that the result was an additional two million minutes in U.S.-billed traffic through callback, refile or similar services. In that case, the traffic imbalance on the route would be three million minutes, and the net settlement payments of U.S. carriers would be \$600,000 or \$.05/minute, an increase of 25%. Further, if we assume that half of the increase in U.S.-billed minutes came at the expense of foreign-billed traffic, the total net settlement payments of U.S. carriers would be \$800,000 or \$.067/minute, an increase of 68%. Therefore, a reduction in the notional settlement rate does not necessarily result in a reduction in the per-minute settlement payments.

payments when the I/O ratio is 1:1, while a low notional settlement rate could result in substantial settlement payments when the I/O ratio is severely skewed. While unit settlement payments may be used to analyze the costs of U.S. carriers who are net settlement payers, they do not have any bearing upon the costs incurred by the recipient to terminate U.S.-billed traffic.

Lastly, the FCC's unsupported assertion that 75% of U.S. net settlement outpayments represents a "subsidy" to foreign carriers ignores the causes and consequences of such outpayments. When a U.S. carrier increases the traffic imbalance on the U.S.-Singapore route through refile from third countries, the result is a net loss to Singapore Telecom. While U.S. settlement outpayments increase slightly, Singapore Telecom will see an increase in its traffic imbalance on direct routes with the third countries. As Singapore's settlement rates with third countries are higher than the U.S.- settlement rate, the increase in the settlement payments by Singapore Telecom to third countries will be greater than the increase in settlement payments it receives from U.S. carriers, and the refile traffic would embody a net revenue loss for the Singapore end. A similar analysis holds true for callback and other reverse-billed services, where the settlement payments received by Singapore Telecom are more than offset by the lost collection revenues from not handling the call as Singapore-billed traffic.²¹ As a result, it is inaccurate to regard any portion of the U.S. settlement outpayment as a "subsidy" to Singapore Telecom. The FCC should recognize in any final

²¹ E.g., C&W Comments at 23 n.56 ("[w]here the customer is a foreign national, the resulting accounting rate outpayments are, generally, more than offset by the foreign currency revenues paid either the U.S. underlying carrier or the U.S. service provider").

rules it adopts that net settlement payments by U.S. carriers do not necessarily represent a net "subsidy" to the carriers who receive those payments.

V. THE FCC SHOULD REQUIRE U.S. CARRIERS TO LOWER COLLECTION RATES IN RESPONSE TO REDUCTIONS IN SETTLEMENT RATES

Several parties agree that the FCC should require -- not merely "encourage" -- U.S. carriers to pass through to U.S. consumers all settlement rate reductions in the form of lower collection rates.²² The record shows that while many foreign carriers consistently have reduced collection rates in response to steadily declining settlement rates, U.S. carriers have refused to lower IDD collection rates commensurately, if at all. For example, between 1986 and 1996, the U.S.-Singapore accounting rate dropped by 70%, from \$2.50 (U.S.) to 0.62 SDR per minute. During this same period, the Singapore IDD collection rate to the U.S. dropped from S\$3.40 to S\$1.30, a 62% reduction. By contrast, AT&T's rate to Singapore dropped by only 23%, from US\$2.22 to US\$1.71.²³ Further, in the case of numerous other routes, consumer rates charged by AT&T for calls have actually increased in the face of a reduction in the accounting rate over the past five years.²⁴ Absent a mandate from the

²² See, e.g., U.S. House of Representatives, Committee on Commerce Comments at 2; France Telecom Comments at 5-6; HKTl Comments at 19-21.

²³ These data are taken from the FCC's annual report entitled "Statistics of Communications Common Carriers" containing, among other things, the IDD collection rates of AT&T.

²⁴ See HKTl Comments at 11 (AT&T's collection rates increased while the accounting rate dropped 57% on the route over five years); KDD Comments at 10 (between 1990 and 1995 the settlement rate on the U.S.-Japan route dropped by 53% while AT&T's IDD rates on that route increased by 13%); Telecom Italia Comments at 4 (over the past four years Telecom Italia has reduced accounting rates by 80% while the operating margins of U.S. carriers on calls to Italy range from 60%-80%); Telmex Comments at 13-14 (from 1990 to 1997 the settlement rate on the U.S.-Mexico route

(continued...)

Commission, U.S. carriers rather than U.S. consumers would benefit from reduced settlement rates by increasing their profit margins and net revenues.

VI. ANY EFFORT TO ACHIEVE COST-BASED INTERNATIONAL COMMUNICATION CHARGES MUST INCLUDE CONSIDERATION OF TARIFF PRACTICES FOR INTERNET SERVICES

Singapore Telecom supports Telstra's position that the tariffing practices of U.S. carriers for international private line services required for Internet access must be reformed. U.S. carriers currently require foreign carriers to pay for both of the international half-circuits needed to access U.S.-based Internet sites. This practice is clearly inconsistent with the long-established practice that each correspondent carrier should pay for its own half-circuit. As Telstra notes, requiring foreign carriers to bear the full cost of the international link unjustifiably favors U.S. carriers, to the detriment of foreign carriers and their Internet consumers; effectively, foreign carriers are subsidizing U.S. carriers, U.S. Internet service providers, and U.S. Internet customers.²⁵ In the case of Telstra, this subsidy presently equals approximately \$9.6 million/year.²⁶ Singapore Telecom, like Telstra, is seriously disadvantaged under the current tariffing arrangement. Because it must pay 100% of the international link, Singapore Telecom is unable to price its Internet retail rates so as to be competitive with U.S. Internet rates. Accordingly, Singapore Telecom suggests that the

²⁴(...continued)

dropped from \$0.779 to \$0.395 while AT&T's IDD rates to Mexico increased from \$0.9661 to \$1.1316); Telstra Comments at 4-5 (noting that the U.S.-Australia rate has decreased by 44% in the past three years, but AT&T increased its IDD rate for calls to Australia in both 1993 and 1995).

²⁵ Telstra Comments at 3.

²⁶ *Id.* at 4.

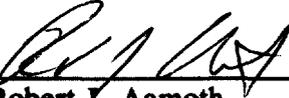
Commission direct its attention immediately to the establishment of non-discriminatory, cost-based IPL rates for Internet access.

CONCLUSION

For the foregoing reasons, Singapore Telecom submits that the FCC should not adopt the settlement rate benchmark policies as proposed in the NPRM.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Rebekah J. Kinnett, hereby certify that I have served a copy of the foregoing "Reply Comments of Singapore Telecommunications Limited" on this 31st day of March, 1997, upon the following parties by hand delivery:

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