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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of	)	
	)	**IB Docket No. 96-261**
International Settlement Rates	)	

TO: The Commission

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Federal Communications Commission
Office of Secretary

REPLY COMMENTS OF GUYANA TELEPHONE & TELEGRAPH LIMITED

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SUMMARY

Guyana Telephone & Telegraph Ltd. ("GT&T") opposes the FCC's proposals to establish unilaterally a settlement rate benchmark on the U.S.-Guyana route as contrary to accepted principles and requirements of international law.

The FCC should not establish any benchmarks for countries who exchange traffic with the United States exclusively via satellite facilities. There is no evidence in the record that international satellite costs have decreased to the same extent as undersea fiber optic cable costs. GT&T proffers evidence that satellite routing is more expensive than undersea fiber optic cable routing for developing countries such as Guyana. The FCC's prediction that satellite costs potentially may come down sometime in the future cannot support its prescription of settlement rate benchmarks for countries served exclusively by satellites.

Further, the FCC does not have sufficient data to include Guyana in the tariff component prices ("TCP") analysis. GT&T does not offer an international private line service from which to derive an International Transmission TCP. The FCC's decision to use Brazil's International Transmission TCP as a proxy for Guyana is highly inaccurate, as Brazil is served by undersea fiber optic cables, is a middle-income rather than a low-income country, and has IPL rates that are significantly below 50% of GT&T's rates for non-tariffed, dedicated international capacity. Lastly, the FCC's attempt to construct an overall TCP for low-income countries based upon a ten-country sample size, where it has incomplete and incorrect data for at least two of the countries, falls of its own weight.

The TCP approach is empirically and theoretically unsound. The proposed National Extension TCP for many countries is funded by other revenues, and in Guyana and other countries is supported from settlement revenues. The FCC also ignored serious

exchange rate fluctuations in deriving an incorrect estimate of the National Extension TCP for Guyana.

The proposed International Transmission TCP also is not cost-oriented. The FCC ignores the extent to which U.S. and other foreign carriers implement Ramsey pricing principles so that international private lines ("IPLs") bear disproportionately fewer joint and common costs compared to international direct dial services. In an industry where a significant percentage of a carrier's costs are joint and common, a carrier's retail IPL rate will be less on a per-minute basis than its wholesale costs of terminating international switched traffic.

The proposed Switching TCP also must be rejected; the FCC has relied upon data that are not in the record and that do not adequately reflect the different cost situation of developing countries.

The TCP approach cannot be defended on the ground that it is a conservative methodology that errs by overestimating the costs incurred by foreign carriers to terminate U.S.-billed traffic. The National Extension TCP clearly understates the underlying component costs, and GT&T submits that the other TCPs also understate the underlying component costs. There is no empirical basis upon which the FCC can conclude that any errors in the TCP analysis work to the advantage of foreign carriers by overestimating their actual termination costs.

The TCP approach must be abandoned as theoretically unsound. The approach does not work even in theory unless each TCP independently reflects the component costs. However, at least one TCP is a below-cost rate that is funded from other sources, and GT&T submits that all three TCPs are below-cost rates. It is particularly illogical to use TCPs as a proxy for a cost-oriented settlement rate if foreign carriers use some portion of the settlement rate to fund one or more TCPs. When one or more TCP rates depend even in part upon the level of the settlement rate, the TCP approach becomes an exercise in circularity rather than a meaningful effort to estimate a cost-oriented settlement. GT&T and other foreign carriers have provided evidence that National Extension TCP is funded via settlement revenues, thereby repudiating the TCP approach.

AT&T's argument that all foreign carriers incur the same costs as U.S. carriers to terminate foreign-billed traffic cannot be taken seriously. GT&T provides evidence showing that there are numerous causes of the significantly higher costs that foreign carriers in developing countries incur to terminate U.S.-billed traffic.

The FCC's assertion that foreign countries are not entitled to promote universal service by imposing a heavier cost burden upon international than domestic traffic is insupportable. It is for each country to adopt the pricing and other policies which it feels will best promote universal service and other social policies in its own unique circumstances. As regards Guyana, the FCC's proposed benchmarks would deprive GT&T of upwards of $35 million annually and require at least a 1000% increase in domestic rates. Clearly, such an enormous rate increase in a country where per capita GNP is less than $726 is politically and economically infeasible. It is ironic that the FCC is seeking to prescribe benchmark settlement rates ostensibly to ensure lower rates for U.S. consumers through a mechanism that would effectively leave foreign countries powerless to prevent massive rate increases for their own consumers.

Further, the FCC ignores the extent to which it has imposed a discriminatory burden upon international and other interstate services to support universal service in the United States. The FCC has designed specific universal service programs, as well as the interstate access charge regime, to recover universal service costs disproportionately from the interstate jurisdiction. U.S. carriers build those costs into their long distance and international rates, with the inevitable effect of dampening demand for U.S.-outbound service and decreasing U.S. settlement payments. In a very real sense, foreign carriers historically have subsidized universal service in the United States through foregone settlement revenues.

Lastly, GT&T submits that the FCC's settlement rate proposals are flatly inconsistent with Section 201(b) of the Communications Act of 1934. As the FCC itself recognizes, that provision requires the FCC to consider numerous factors in addition to cost in determining a just and reasonable rate. Therefore, even if that provision applies here (which GT&T does not concede), it could not justify the FCC's proposal to base settlement rate benchmarks solely upon costs to the exclusion of all other factors.

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International Settlement Rates	)	

REPLY COMMENTS OF GUYANA TELEPHONE & TELEGRAPH LTD.

Guyana Telephone & Telegraph Co. Ltd. ("GT&T"), by its attorneys, hereby submits reply comments in response to the Notice of Proposed Rulemaking (FCC 96-484) [hereinafter "Notice"] in the above-captioned proceeding. GT&T is a member of the Caribbean Association of National Telecommunication Organizations ("CANTO"), which submitted comments in this proceeding on February 7, 1997.

GT&T is the sole provider of domestic and international telecommunications services in the Cooperative Republic of Guyana. GT&T is 80% owned by Atlantic Tele-Network, Inc., a U.S. corporation with its headquarters in the U.S. Virgin Islands. Under ATN's control since 1991, GT&T has invested more than $90 million (U.S.) to date in a capital improvements program to establish a modern telecommunications infrastructure in Guyana. Under that program, there has been a 500% increase in international direct dial access lines, and a 300% increase in total access lines, since 1991.[1] Due to that program, GT&T's call completion ratio for international switched telephone calls has improved from 15% to over 65%.[2] Apart from the citizens and economy of Guyana, the primary

[1] See "One Telco's Effects on a Nation," TeleTimes, published by United States Telephone Association, Fall, 1996 (copy attached); see also Declaration of Thomas R. Minnich at ¶ 2 (attached hereto) [hereinafter "Minnich Declaration"].

[2] See Minnich Declaration at ¶ 2.

beneficiaries of this new infrastructure are U.S. equipment manufacturers;[3] U.S. carriers who originate traffic for completion in Guyana; U.S. companies who trade with or invest in Guyana; and the millions of Guyanese and other residents in the United States who desire to communicate by telephone with businesses or persons in Guyana.

GT&T urges the FCC not to adopt the proposed settlement rate benchmarks and related policies. Under the aegis of the International Telecommunications Union, settlement rates are established by mutual agreement through bilateral negotiations between international carriers. The FCC's jurisdiction does not extend to prescribing settlement rates for the world, and it lacks the data and expertise to establish compensatory settlement rates for carriers in developing countries such as Guyana. If implemented, the FCC's proposed benchmarks would deprive GT&T and other carriers in developing countries of the funds they need to implement on-going infrastructure development projects and to assure universal service. At a minimum, the FCC should exclude from its settlement policies those countries who exchange traffic with the United States exclusively via satellite facilities or for whom it lacks sufficient data to apply the tariff component pricing ("TCP") approach proposed in the Notice.

I. THE FCC CANNOT ESTABLISH BENCHMARKS FOR GUYANA

A. Satellite Versus Undersea Cable Routing.

The FCC should not establish any settlement rate benchmarks for Guyana and other countries who exchange traffic with the United States exclusively via international satellite facilities. The FCC's proposed benchmarks are based upon the FCC's belief that the

3 Id.

costs of terminating international switched traffic via fiber optic submarine cables have declined in recent years. However, the FCC cites to no evidence, nor have the commenting parties provided any reliable data, showing that the costs of terminating international switched traffic via satellite have declined to the same extent or indeed at all.[4] In its Notice, the FCC states that "[w]e anticipate that increased competition in international satellite services will bring similar potential benefits to countries that are not now served by undersea cables and comparable land facilities." Notice at para. 9 (emphasis supplied). However, the FCC's mere prediction that satellite routing may cost less in the future is patently insufficient to justify prescribing settlement benchmarks at this time.

The record does not provide an empirical basis for the FCC to conclude that foreign carriers served exclusively by satellites have the same cost structure and levels as foreign carriers served by undersea cables. Nor does the record provide any empirical basis for the FCC to estimate the extent of the cost difference between those two types of foreign carriers. Further, the attached declaration proves that there is a material cost difference between satellite and cable routing for countries such as Guyana.[5] Therefore, the FCC cannot adopt settlement rate benchmarks for Guyana, where, as the attached declaration

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[4] The FCC has estimated that the transmission costs of undersea fiber optic cables have declined by 87% in the past six years alone. See Speech by Reed Hundt, Chairman, Federal Communications Commission, Royal Institute of International Affairs, London, England, "Seven Habits of Hopefully Highly Successful Deregulatory Communications Policy People," Sept. 4, 1996. The FCC has presented no evidence suggesting a similar reduction in international satellite transmission or related costs during that period.

[5] See Minnich Declaration at ¶ 3. Further, there is no reason to believe that satellites will become a less expensive means of routing international switched traffic in the future, and the increased availability and capacity of undersea fiber optic cables may serve to increase the per-minute costs of those countries who continue to be served exclusively or primarily via satellite.

affirms, GT&T exchanges international switched traffic with the United States exclusively via international satellite facilities.[6] Certainly, there is no record basis for the FCC to prescribe settlement rate benchmarks, as it has proposed to do, without distinguishing between foreign carriers served by undersea cables and those served exclusively by satellites.

B. Inadequate TCP Data.

The FCC cannot adopt settlement rate benchmarks for Guyana and other countries for whom the FCC lacks sufficient data regarding one or more of its proposed TCPs. As regards Guyana, the FCC recognizes that GT&T does not offer a tariffed IPL service.[7] Further, the FCC does not have accurate information on the rate charged by GT&T to customers for dedicated international transmission capacity, and the attached declaration confirms that the IPL rate for Brazil that the FCC proposes to use as a proxy for GT&T's "IPL" rate is significantly less than 50% as high as GT&T's existing rates.[8] Therefore, the FCC lacks the data necessary to apply its tariffed components price ("TCP") approach to Guyana.

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6 See Minnich Declaration at ¶ 3.

7 See "Foreign Tariffed Components Prices," A Report Prepared by the International Bureau, Telecommunications Division, Federal Communications Commission (Dec. 1996) at 7 n.9 [hereinafter "TCP Report"]. The FCC's effort to establish a proxy for a proxy -- using Brazil's IPL rates as a proxy for GT&T's IPL costs as a proxy for GT&T's transmission costs -- is flawed for numerous reasons, including that carriers in Brazil provide IPL service via undersea cables while GT&T cannot. Further, it is improper for the FCC to select an IPL proxy from a different country classification; Brazil is a middle-income country while Guyana is a low-income country under the World Bank classifications.

8 See Minnich Declaration at ¶ 4. GT&T is not willing to disclose the actual rates it charges, or the identity of its customers, because such information is proprietary. Further, the FCC does not have jurisdiction over GT&T or the ability to compel GT&T to produce data on the record in an FCC proceeding.

In general, there is no empirical basis upon which the FCC can use the IPL rate of another country as a cost proxy for GT&T's International Transmission component, which itself is asserted to be merely a proxy for GT&T's international transmission costs. Particularly given the inherent deficiencies in the TCP approach identified by GT&T and other commenting parties,[9] the FCC's proposal to create a proxy for a proxy for one of GT&T's principal cost components reflects a cost relationship that is so attenuated as to fall virtually of its own weight.

Further, the FCC's proposal to construct a settlement rate benchmark for over 60 low-income countries based upon an average TCP developed from a sample group of only ten countries is inherently deficient. That deficiency is underscored by the absence of complete TCP data for at least two of the ten countries (Haiti and Guyana) used to compile the overall average TCP. The FCC does not come close to having sufficient data to prescribe a reasonably accurate settlement rate benchmark for any low-income countries. In sum, the FCC should not adopt settlement rate benchmarks for any country for which it lacks sufficient information to conduct the TCP analysis, or indeed for any low-income country at all.

II. THE TCP APPROACH DOES NOT YIELD COST-ORIENTED SETTLEMENT RATE BENCHMARKS

The FCC must abandon its proposed TCP approach for calculating settlement rate benchmarks because the TCPs do not accurately reflect the underlying component costs.

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[9] See ABS-CBN Telecom Comments at 3-8; Chunghwa Telecom Comments at 2; France Telecom Comments at 10-11; GTE Comments at 23; International Digital Communications Comments at 4-5; KDD Comments at 12-14, 16; Pacific Bell Comments at 5-6; Singapore Telecom Comments at 8-9; Telefónica del Perú Comments at 12; Telintar Comments at 10; Telmex Comments at 20-24.

A. The National Extension TCP.

Numerous commenting parties have informed the FCC that the National Extension TCP does not reflect the underlying component costs.[10] The National Extension TCP is funded by other domestic rates, and also by international settlement revenues. In the attached declaration, GT&T affirms that its National Extension TCP of $.006/minute is only a small fraction of GT&T's underlying component costs.[11] Rather, the underlying component costs are recovered in significant part from the settlement payments GT&T receives from U.S. carriers.[12]

Further, the FCC has improperly ignored the massive fluctuation in the U.S.-Guyana exchange rate in deriving a National Extension TCP of $.006/minute (U.S.). GT&T's National Extension rate has not changed since 1989, when the exchange rate between Guyana and U.S. dollars was roughly 10:1. In the past eight years, the exchange rate ratio has changed to approximately 142:1 due to the devaluation of the Guyana currency.[13] The FCC's decision to ignore exchange rate fluctuations over time has resulted in its TCP estimate being seriously inaccurate.

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10 E.g., CANTO Comments at 6. A visual examination of the FCC's TCP table in Appendix E confirms that numerous foreign carriers have National Extension rates that inarguably are funded through other domestic rates and/or settlement revenues.

11 See Minnich Declaration at ¶ 5.

12 See Minnich Declaration at ¶ 7.

13 See Minnich Declaration at ¶ 9.

B. The International Transmission TCP.

The TCP for International Transmission does not reflect accurately the transmission costs incurred by foreign carriers to terminate international switched traffic. The FCC correctly recognizes that a cost-oriented rate should reflect a "reasonable contribution to the common costs of foreign carriers." Notice at para. 32. However, the FCC ignores the extent to which foreign carriers, like U.S. carriers, use different factors to allocate joint and common costs between their private line and switched services. Carriers who implement the well-recognized principles of Ramsey pricing allocate disproportionately fewer joint and common costs to their private line services than to their switched services.[14] As the attached declaration affirms, GT&T implements the principles of Ramsey pricing in establishing rates for dedicated international traffic routing.[15] In an industry where a significant percentage of a carrier's costs are joint and common, a carrier's retail IPL rate will be less on a per-minute basis than its wholesale costs of terminating international switched traffic.

Further, the FCC has implicitly assumed that foreign carriers provide a sufficient amount of IPL service so that the IPL rates can be regarded as a meaningful estimate of the carrier's transmission costs. However, the dedicated international services offered by carriers in developing countries may be directed at only a few strategic customers.

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[14] See National Rural Telecom Ass'n v. FCC, 988 F.2d 174, 182-183 (D.C. Cir. 1993) (endorsing Ramsey pricing as economically efficient allocation of joint and common costs). For a discussion of Ramsey pricing, see Open Network Architecture Tariffs of Bell Operating Companies, 9 FCC Rcd 440, 453 n.58 (1993); Separation of Costs of Regulated Telephone Service, 2 FCC Rcd 1298, 1313 n.219 (1987).

[15] See Minnich Declaration at ¶ 4.

In Guyana, GT&T provides dedicated international transmission service to only two customers.[16] In those circumstances, the FCC cannot make any assumption that the IPL rate established by the foreign carrier reflects the underlying transmission costs for switched international traffic.

C. The Switching TCP.

GT&T strongly disagrees with the FCC's proposed use of the TEUREM study as a proxy for switching costs. The TEUREM study cannot be used because the underlying data and assumptions used to calculate its results have not been made publicly available. Further, the FCC's assumption that a country's level of digitization corresponds to the World Bank's country classifications based upon per capita gross national product ("GNP") is not supported by any evidence whatsoever. Nor has the FCC shown that the TEUREM results adequately reflect the higher costs incurred by developing countries. The mere fact that a few developing countries apparently were included in the TEUREM study cannot justify using the TEUREM results as a switching cost proxy for all developing countries.[17] At a minimum, it would be necessary to obtain the TEUREM data on developing countries, rather than the averaged data for all participating countries, to determine whether the TEUREM results could be applied to developing countries as proposed by the FCC.

Further, GT&T would point out the inconsistency between the FCC's proposed use of a single usage-based amount to estimate a switching TCP for a country, and the

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16 See Minnich Declaration at ¶ 4.

17 GT&T would note that only two of the 42 TEUREM countries (Albania and Egypt) are in the low-income category. Therefore, there is no empirical basis for the FCC to draw any conclusions from the TEUREM study about switching costs in low-income countries such as Guyana.

FCC's assertion in the access reform proceeding (CC Docket No. 96-262) that "[a] significant portion of local switching costs . . . likely do not vary with usage."[18] If the FCC is correct that certain switching costs are non-traffic sensitive ("NTS"), the use of a single per-minute charge as a proxy for switching costs is not cost-oriented. Further, converting NTS costs to a usage-based figure depends upon factors such as traffic density, and the FCC lacks the necessary data to estimate a cost-oriented per-minute rate for the recovery of NTS switching costs by foreign carriers.

D. The Non-Conservative TCP Approach.

The FCC justifies the TCP approach on the ground that "TCPs exceed the underlying costs borne by foreign carriers to handle international service."[19] In effect, the FCC is saying that to the extent it has made a mistake in estimating foreign termination costs through the TCP approach, it has erred by overestimating those costs. In fact, the TCPs do not exceed the underlying component costs of foreign carriers, and the FCC's use of the TCP approach to derive benchmark settlement rates is not a conservative methodology. The National Extension TCP is indisputably below cost,[20] and the other two TCPs are not cost-based and, in GT&T's view, are below-cost proxies. Because the FCC has no basis for

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[18] In the Matter of Access Charge Reform, CC Docket No. 96-262, FCC 96-488, rel. Dec. 24, 1996, at para. 72 (Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry) [hereinafter "Access Reform NPRM"].

[19] TCP Report at 2.

[20] Even if the FCC found that only the National Extension TCP was below cost, the FCC has no empirical basis for estimating whether the amounts by which the Switching and International Transmission TCPs exceed underlying costs offset the amount by which the National Extension TCP is below cost. Certainly, there is no empirical or logical basis for assuming that the above-cost and below-cost aspects of the TCP approach cancel out.

finding that the overall TCP on any route is above cost, the FCC cannot use the TCP approach to derive mandatory settlement rate benchmarks.

E. The Theoretically-Unsound TCP Approach.

The TCP approach must be abandoned because it is theoretically unsound. That approach -- using three TCPs as a combined proxy for a cost-oriented settlement rate -- works in theory only if each TCP independently reflects the costs of the underlying component. That approach does not work if one or more TCPs are "subsidized" rates which may be below the carrier's costs of providing the component. It is particularly illogical to use TCPs as a proxy for a cost-oriented settlement rate if foreign carriers use some portion of the current settlement rate to recover the costs of terminating components. In that case, the TCP methodology turns against itself; the TCPs result in a reduced settlement rate, which in turn reduces settlement revenues and thereby causes an increase in the TCPs from which the FCC sought to derive a cost-oriented settlement rate. When one or more TCP rates depend even in part upon the level of the settlement rate (that is, if a reduction in the current settlement rate entails an increase in one or more TCP rates to ensure component cost recovery), then the TCP approach becomes an exercise in circularity rather than a meaningful effort to estimate a cost-oriented settlement rate.

The record confirms that the TCP approach cannot be used to estimate cost-oriented settlement rates. As GT&T attests here for Guyana, the National Extension TCP does not reflect the underlying component costs. Further, the TCP approach is self-contradictory because the record shows that GT&T and other carriers use settlement revenues to recover a portion of the costs of providing the National Extension TCP.[21] Therefore, the TCP approach cannot be used as a methodology for establishing settlement rate benchmarks because TCP rate levels are dependent upon settlement revenues.

The FCC cannot cure the deficiencies in the TCP approach unless it can estimate accurately for each country the extent to which domestic collection charges and/or settlement revenues are used to fund below-cost National Extension (or other TCP) rates, and then add those revenues back into the TCP rates for purposes of estimating a cost-oriented settlement rate. As the FCC lacks the data necessary to ensure that the TCP rates function as an accurate cost proxy, the TCP approach should be abandoned as theoretically and practically unsound.

III. THE FCC DOES NOT HAVE SUFFICIENT DATA TO PRESCRIBE A COST-ORIENTED SETTLEMENT RATE FOR FOREIGN CARRIERS

The record does not contain any data from which the FCC can derive a low-end settlement rate benchmark at $.09/minute or any other figure. AT&T is wrong when it argues that "there are no material differences between the costs of U.S. and foreign carriers for the termination of international calls."[22] As demonstrated in the attached declaration, there are numerous reasons why foreign carriers in developing countries incur higher per-minute costs than U.S. carriers to terminate international switched traffic:

(i) a significantly higher cost of capital for carriers in developing countries than for AT&T;

(ii) increased reliance upon transit rather than direct routing;

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21 E.g., CANTO Comments at 6.

22 AT&T Comments at 28.

(iii) far fewer economies of scope and scale on thin routes serving developing countries;

(iv) materially higher equipment purchase costs;

(v) significantly higher equipment installation and maintenance costs;

(vi) higher costs due to reliance upon satellite routing;

(vii) less than fully optimal utilization of network facilities due to traffic density, volume and configuration; and

(viii) significantly higher costs due to a less educated, trained and skilled workforce, and the need to send employees abroad for training and to bring experts into Guyana from other countries at hardship pay.[23]

Therefore, the FCC cannot rely upon whatever data AT&T or other U.S. carriers may decide to put into the record regarding the costs of terminating international switched traffic as an accurate basis for prescribing settlement rates for their termination of U.S.-billed traffic in foreign countries.

IV. FOREIGN COUNTRIES ARE ENTITLED TO SUPPORT UNIVERSAL SERVICE THROUGH SETTLEMENT REVENUES

In the Notice (at para. 40), the FCC stated that it "see[s] no justifiable economic basis for requiring a U.S. carrier to pay a foreign carrier more than that carrier charges its domestic customers for the same service." In effect, the FCC's position is that a foreign country may not impose a greater universal service burden upon international traffic than it imposes upon domestic traffic. Consistent with other commenting parties,[24] GT&T strongly disagrees with that position. The FCC does not have the jurisdiction, expertise or

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23 See Minnich Declaration at ¶ 6.

24 See, e.g., CANTO Comments at 5; C&W Comments at 10-12; Indosat Comments at 2; Solomon Islands Comments at 2; Telecom Vanuatu Comments at 2.

data to construct and impose a universal service policy for the entire world. It is for each country to adopt the pricing and other policies which it feels will best promote universal service and other social policies in its own unique circumstances.

Further, as CANTO and other commenting parties have noted,[25] the FCC's proposed settlement rate benchmarks would have severe adverse consequences for any foreign country whose carriers use settlement revenues to fund domestic services and infrastructure development. In Guyana, GT&T's multi-year effort to improve the telecommunications infrastructure would be compromised by any sudden decrease in the settlement revenues upon which GT&T depends for funding.[26] There is no basis for the FCC to conclude that it is feasible for GT&T to recoup all, most or even some lost settlement revenues through domestic rate increases. GT&T estimates that it would lose upwards from $35 million in settlement revenues each year under the FCC's proposed settlement rate benchmarks, which, if applied across-the-board, would require at least a 1000% increase in GT&T's domestic rates.[27] Such an increase is politically and economically infeasible in Guyana today because it would force a large percentage of subscribers to leave the public switched network.[28] Further, such an increase would

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[25] See, e.g., CANTO Comments at 2, 4; C&W Comments at 10-15; COMTELCA Comments at 11-12; International Telecom Japan Comments at 16-17; Panama Comments at 24-26; Saint Vincent and the Grenadines Comments at 1; Solomon Islands Comments at 2; Telecom Vanuatu Comments at 2. As the attached Declaration indicates, the settlement payments GT&T receives from U.S. carriers represents well over half of GT&T's total gross annual revenues. See Minnich Declaration at ¶ 7.

[26] See Minnich Declaration at ¶ 2.

[27] See Minnich Declaration at ¶ 8.

[28] It is ironic that the FCC would be considering measures that would have such a massive impact upon foreign carriers in developing countries, when even a slight increase (continued...)

adversely affect GT&T's ability to obtain the hard currency required by vendors for GT&T to purchase telecommunications equipment. As a result, the FCC's proposed benchmarks would work contrary to the efforts of GT&T and carriers in other developing countries to expand the network infrastructure and increase the penetration ratio.

The FCC has ignored the reality that in many developing countries international service is the only traffic stream that is sufficiently robust to bear a significant share of universal service costs. In Guyana, the large majority of current subscribers are so poor (per capita GNP less than $726) that they simply could not afford to stay on the public switched network if they were required to pay 100% of the fixed and variable costs GT&T incurs to provide them telephone service. While GT&T recognizes the importance of rebalancing domestic rates to achieve greater economic and operating efficiency, such changes must be accomplished gradually and with the minimum possible disruption to the public switched infrastructure in Guyana. For a developing country like Guyana, it is both logical and necessary to impose a heavier cost burden upon international traffic than upon other traffic streams. It is ironic that the FCC is seeking to prescribe benchmark settlement rates ostensibly to ensure lower rates for U.S. consumers[29] through a mechanism that would

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[28](...continued)
in the single-line residential subscriber line charge is considered a politically unachievable result in the FCC's access reform proceeding.

[29] GT&T agrees with those commenting parties who have shown that U.S. carriers do not flow through settlement rate reductions to the benefit of U.S. consumers. E.g., CANTO Comments at 4. During previous accounting rate negotiations with GT&T, AT&T has refused GT&T's offer to reduce the settlement rate if AT&T would commit to reduce its collection rates for calls to Guyana. See Letter from C. Hordatt, GT&T, to D. Searcy, FCC (Jan. 11, 1993) (attached hereto). AT&T's current collection rate of $2.54/minute for calls to Guyana (see AT&T Tariff F.C.C. No. 27, Section 24.1.2.C.), which is orders of magnitude higher than AT&T's costs of providing service to Guyana, is due to the lack of competition in the U.S. international market, not settlement rate levels.

effectively leave foreign countries powerless to prevent rate increases for their own consumers.

Further, the FCC has adopted numerous policies imposing a discriminatory burden upon international and other interstate services to promote universal service and other policy goals. For example, the FCC required the largest interexchange carriers to pay interstate access charges to support the Universal Service Fund and Lifeline Assistance Programs.[30] Providers of intrastate and local services, as well as smaller interexchange carriers, were not required to support those universal service programs. The largest interexchange carriers built those universal service costs into their long distance and international rates, with the inevitable effect of dampening demand for U.S.-outbound service and decreasing U.S. settlement payments to foreign carriers. In a very real sense, foreign carriers historically have subsidized universal service in the United States through foregone settlement revenues.

The FCC's rules have promoted other universal service cross-subsidies. For example, pursuant to federal law, the FCC adopted rules requiring all providers of interstate services to fund telecommunications relay services for persons with hearing and speech disabilities.[31] As another example, the separations process historically has over-allocated

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[30] See 47 C.F.R. §§ 69.116 and 69.117, dictating the computation of charges for Universal Service Fund and Lifeline Assistance Programs respectively.

[31] See Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571 (TRS Docket), Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, 8 FCC Rcd. 1802 (1993), amending 47 C.F.R. §64.604 to adopt a shared-funding mechanism for interstate TRS cost recovery. See also, TRS Docket, Third Report and Order, 8 FCC Rcd. 5300 (1993), amending 47 C.F.R. §64.604 to impose an annual and other reporting requirements on TRS providers and TRS Fund contributors to implement shared-funding.

costs to the interstate jurisdiction, and the FCC and certain parties have taken the position that the misallocation was designed to support universal service objectives.[32] In recent testimony before Congress, FCC Chairman Hundt stated that "[i]nterstate access, as it currently stands, is the largest federal universal service support mechanism, and it is entirely implicit."[33] In each case, the rates charged by carriers for interstate services, including international services, have been artificially inflated, while intrastate and local services have been free from such obligations. The FCC is in no position to criticize foreign countries who may wish to impose a heavier universal service obligation upon international traffic when the FCC itself has imposed more burdensome universal service obligations upon international traffic than upon intrastate and local traffic.

V. THE FCC'S PROPOSALS ARE INCONSISTENT WITH SECTION 201(B)

GT&T agrees with those commenting parties who show that the United States lacks the sovereignty, and the FCC lacks the statutory jurisdiction, to adopt and enforce the proposed settlement benchmarks.[34] GT&T will not reiterate those arguments here, except

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[32] E.g., Access Charge NPRM at para. 23 & n.28 ("commentators suggest that separations allocation, in particular allocation of common plant, reflects not only economic considerations, but also public policy considerations related to universal service and the desirability of low local rates"). Further, the FCC has held that the carrier common line and transport interconnection charges may contain universal service support flows. See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, rel. Aug. 8, 1996, at para. 718.

[33] See Statement of Reed Hundt, Chairman, Federal Communications Commission on Universal Service, Before the Committee on Commerce, Science and Transportation, United States Senate, March 12, 1997 at p. 11.

[34] See, e.g., AHCIET Comments at 2-3; CANTO Comments at 1; C&W Comments at 2-15; Chunghwa Telecom Comments at 2; COMTELCA Comments at 13-15; Cooperation Council for the Arab States of the Gulf Comments at 1-2; DGT, Taiwan

(continued...)

to note in addition that the FCC's settlement rate benchmark proposals are inconsistent with Section 201(b) of the Communications Act of 1934. Even if Section 201(b) applies to settlement rates negotiated between U.S. and international carriers (which GT&T does not concede), it does not justify prescribing settlement rate benchmarks, as the FCC proposes to do, based solely upon costs. As the FCC recognized in the Notice (at para. 33 n.42), costs are only one of many factors that the FCC must consider in determining whether a rate is just and reasonable pursuant to Section 201(b).[35] If it were applicable, Section 201(b) would require the FCC to consider non-cost factors, such as the impact upon service quality, universal service, and network infrastructure, to name a few.

Further, because the FCC is seeking to prescribe the rates that foreign carriers may charge for terminating U.S.-billed traffic over their own facilities in their own countries, any analysis of a "just and reasonable" rate presumably would require examining the impact of the benchmarks upon service quality, universal service, and network infrastructure in those countries.[36] That the FCC lacks the expertise or data to even initiate such an

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[34](...continued)
Comments at 1-2; Deutsche Telecom Comments at 5-9; GTE Comments at 10-15; Government of Japan Comments at 1-2; HKTI Comments at 21-26; Indosat Comments at 1; International Digital Communications at 2; International Telecom Japan Comments at 3-12; KDD Comments at 2-7; P&T China Comments at 1-2; Panama Comments at 17-21; RPOAs of the Republic of Korea Comments at 2, 4; Singapore Telecom Comments at 2-3; Solomon Islands Comments at 1; Telecom Vanuatu Comments at 1; Telefónica del Perú Comments at 6-9; Telintar Comments at 11-30; Telmex Comments at 18-20.

[35] By contrast, the FCC has construed Section 252(d), which Congress inserted into the statute through the Telecommunications Act of 1996 and which all parties concede does not apply in this context, to require rates to be based exclusively upon "costs." 47 U.S.C. § 252(d). See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 96-325, rel. Aug. 8, 1996, at paras. 672-703.

[36] Were the FCC to apply Section 201(b) more narrowly to foreign carriers than (continued...)

examination, much less to make decisions on these matters that are binding on foreign countries, shows that Congress did not adopt Section 201 to authorize the FCC to prescribe settlement rates for foreign carriers in their own countries.

CONCLUSION

For the foregoing reasons, as well as the reasons provided by other commenting parties, the FCC should not adopt mandatory settlement rate benchmarks and related policies.

Respectfully submitted,

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[36](...continued)
to U.S. carriers by focusing exclusively upon costs in prescribing settlement rate benchmarks, the FCC would be in violation of the National Treatment principle which will become binding upon the United States for telecommunications services on January 1, 1998 under the new World Trade Organization agreement.

CERTIFICATE OF SERVICE

I, Lisa L. Leibow, hereby certify that I have served a copy of the foregoing "Reply Comments of Guyana Telephone & Telegraph Limited" on this 31st day of March, 1997, upon the following parties by hand delivery:

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