Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

One Financial Center
Boston, Massachusetts 02111
Telephone: 617/542-6000
Fax: 617/542-2241

Telephone: 202/434-7300
Fax: 202/434-7400
www.Mintz.com

EX PARTE OR LATE FILED

Donna N. Lampert
Internet Address
dnlamper@mintz.com

Direct Dial Number
202/434-7385

April 30, 1997

EX PARTE

RECEIVED
APR 30 1997
Federal Communications Commission
Office of Secretary

BY HAND
William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: CC Docket No. 96-262 -- In the Matter of Access Charge Reform
(Notice of Proposed Rulemaking)

Dear Mr. Caton:

On April 30, 1997, on behalf of America Online, Inc. ("AOL") a copy of the attached document was provided to Chairman Hundt; Commissioner Ness; Commissioner Quello; Commissioner Chong; Blair Levin; Thomas Boasberg, John Nakahata; James Casserly; James Coltharp; Daniel Gonzalez; Joseph Farrell; Gregory Rosston; Regina Keeney; Robert Pepper; A. Richard Metzger, Jr.; Kathy Franco; James Schlichting; Jane Jackson; Larry Atlas; Richard Lerner; Douglas Slotten; Richard Welch; and Pat Degraba .

Pursuant to Section 1.1206(a)(1) of the Commission's Rules, two copies of this Notice are attached for inclusion in the public record in the above-captioned proceedings.

No. of Copies rec'd 0+2
List ABCDE

Should you have any questions regarding this matter, please contact me.

Sincerely,

Donna N. Lampert

Attachments

cc: Chairman Hundt
Commissioner Ness
Commissioner Quello
Commissioner Chong
Blair Levin
Thomas Boasberg
John Nakahata
James Casserly
James Coltharp
Daniel Gonzalez
Joseph Farrell
Regina Keeney
Robert Pepper
Gregory Rosston
A. Richard Metzger, Jr.
Kathy Franco
James Schlichting
Jane Jackson
Larry Atlas
Richard Lerner
Douglas Slotten
Richard Welch
Pat Degraba

PROPOSAL FOR FCC ACCESS CHARGE REFORM

At the outset, America Online, Inc. ("AOL") urges the FCC to take the opportunity in issuing its order on access charge reform to state that no access charges will be imposed upon Internet Service Providers ("ISPs"), beyond the charges being imposed in this access reform item. Such a holding will ensure that the focus of the pending NOI remains where the FCC intended it to be – on the development of data-friendly networks as alternatives to today's inefficient circuit-switched network.

To promote competition and attain the goals of the Telecommunications Act of 1996 ("1996 Act") in instituting access charge reform, AOL also proposes the following amendments to the charges currently under consideration by the FCC. This proposal would promote three critical principles:

- Permit Competition to Develop Further Before Charges Increase Substantially;
- Allow Charges to Move Closer to Economic Costs, Mirroring a Competitive Marketplace; and thereby
- Mitigate Avoidable Rate Increases on Multi-line Business Customers and Minimize the Adverse Impact upon the Internet Industry;.

As such, AOL urges the FCC to modify its proposal in the following respects:

First, to the extent that the FCC concludes that a capped $4.50 presubscribed interexchange carrier charge ("PICC") per-line for multi-line business users is appropriate as it moves to efficient, economic costs, the Commission should phase this charge in as follows. The FCC should permit recovery of a maximum $2.00 of that per-line charge commencing in January, 1998; permit an increase of a maximum $2.00 additional, commencing in January, 1999; and permit recovery of the additional balance of $0.50 commencing in January, 2000, if necessary. Based upon our understanding, the need for such charges to be imposed will decrease as the FCC implements other aspects of its proposed reform plan, so that it is likely that charges will be less than the cap. As stated, by phasing in these charges in this manner, the FCC can avoid rate shock on multi-line business users, especially ISPs who will not see any offsetting long distance rate decrease.

Second, and simultaneous with the above suggested change, the FCC should continue to seek to move to more economically efficient rate levels so that ultimately, it attains rate levels that are based upon forward-looking long run incremental costs. In this regard, AOL proposes that the FCC adjust the price cap productivity X-factor to reflect greater productivity and notes that the record refers to levels in the 7.5 percent range and above.

Third, at the same time, the FCC should strongly consider some re-initialization of rates to allow for only "normal" profits. AOL believes that a rate of 11.25 percent is consistent with past FCC actions and would be legally defensible. As the FCC noted in its NPRM, (¶ 228) there are reasons to believe that such an action would strike a reasonable balance between stockholder and ratepayer interests.