DOCKET FILE COPY ORIGINAL

ORIGINAL
RECEIVED
JUL - 2 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

To: The International Bureau

SUPPLEMENTAL REPLY COMMENTS OF CABLE & WIRELESS, PLC

Cable & Wireless, plc ("C&W"), by its attorneys, hereby replies to the supplemental comments filed in response to the Public Notice ("Notice") (DA 97-1173) released by the International Bureau on June 4, 1997 in the proceeding captioned above.[1/] The Notice seeks comment on the Commission's proposal, which was set forth in the earlier *Foreign Participation Notice*,[2/] to prohibit U.S. facilities-based private line carriers from placing U.S. switched traffic on its private lines until all the settlement rates at the foreign end are within the range to be established in this proceeding. For the reasons discussed below, C&W does not support such a policy.

I. There Is No Legal Or Policy Basis To Support The Adoption Of The Notice's Proposal

As C&W demonstrated in its initial comments in this proceeding, the Commission, as a matter of law, simply does not have the authority, under international law

---

1/ Comments were filed by AT&T Corp. ("AT&T"), MCI Telecommunications Corporation, GTE Service Corporation ("GTE"), and ABS-CBN Telecom, North America, Inc.

2/ *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, IB Docket 97-142, *Order and Notice of Proposed Rulemaking*, FCC 97-195 (June 4, 1997).

No. of Copies rec'd 0+4
List ABCDE

or the Communications Act, to dictate unilaterally the rates a foreign carrier can charge in its home market. Furthermore, assuming *arguendo* jurisdiction, the record in this proceeding is devoid of the necessary data regarding foreign carriers' costs upon which a rate prescription could be justified.[3/]

The Commission's proposed actions in this proceeding are no more valid viewed from a policy perspective. First, the belief that a mandated reduction in accounting rates will alleviate the U.S. settlements deficit is not logical. Throughout this proceeding, many parties have demonstrated that there is little, if any, correlation between settlement rates and the settlements deficit or even the collection rates paid by U.S. consumers for IMTS. This view is supported by the FCC's own recently released International Trends Report ("Report").[4/]

The Commission has no basis on which to determine the appropriate accounting rate or to demonstrate that moving accounting rates to cost would significantly reduce the imbalance of traffic or IMTS rates. Given this, it is not possible for the FCC to make public interest findings to support placing a condition on a carrier's authorization as proposed in the Public Notice.

[3/] Despite this obvious reality, AT&T in its comments suggests that the Commission require "cost-based" rather than its benchmark rates. Given that the FCC's Report has found that while settlement rates have declined significantly, the net amount that U.S. carriers are retaining on international traffic has risen over 30 percent in the last few years, it is not difficult to understand why AT&T would urge such action. What AT&T fails to explain, however, is how the Commission could do what it wishes given the record in this proceeding or the bases for its conclusion that the benchmark rates are not now cost-based on any particular route.

[4/] Trends in the U.S. International Telecommunications Industry, Industry Analysis Division, Common Carrier Bureau, June 1997.

II. The Notice's Proposals Will Delay Achievement Of The Commission's Goal to Reduce Accounting Rates

The international telecommunications market is changing dramatically. International customer requirements, product features, service platforms, and service suppliers are all very different today than they were even 5 years ago. As GTE notes in its comments, market forces already are at work to lower accounting rates. Announcement of the WTO Basic Telecom Agreement has accelerated the trend toward lower settlement rates, as has the Commission's decision to permit alternative settlement arrangements.[5/] There is no question that these competitive forces will continue to drive accounting rates lower.

The Notice's proposals, in C&W's opinion, may lessen these pressures. They are based on a static view of the international arena. Moreover, their unilateral nature is drawing resistance that may well retard additional progress in reducing accounting rates. In light of this, C&W submits that the public interest would be better served if the Commission were to adopt a multilateral approach in order to achieve reform of the current accounting rate system.

Respectfully submitted,

CABLE & WIRELESS, PLC

By: Philip V. Permut

Philip V. Permut
Joan M. Griffin
KELLEY DRYE & WARREN LLP
1200 Nineteenth St., N.W.
Suite 500
Washington, D.C. 20036

July 2, 1997

Its Attorneys

[5/] GTE Comments at 2.

CERTIFICATE OF SERVICE

I, Joan M. Griffin, hereby certify that I have caused a copy of the foregoing "Supplemental Reply Comments of Cable & Wireless, plc" to be served on this 2nd day of July 2, 1997, upon the following parties by U.S. Mail, postage prepaid:

Carol M. Schultz, John M. Scorce,
and Larry Blosser
1801 Pennsylvania Avenue, N.W.
Washington, DC 20006
Counsel for MCI Telecommunications Corporation

Mark C. Rosenblum, Lawrence J. Lafaro,
and James J. R. Talbot
AT&T Corp.
Room 3252H3
295 North Maple Avenue
Basking Ridge, NJ 07920

Gregory C. Staple & R. Edward Price
Koteen & Naftalin, L.L.P.
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, DC 20036
Counsel for ABS-CBN North America, Inc.

R. Michael Senkowski, John B. Reynolds, III,
and Davida M. Grant
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, DC 20006
Counsel for GTE Service Corporation

Ward W. Wueste
CTE Service Corporation
One Stamford Forum
Stamford, CT 06904

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W.
Washington, DC 20036

Joan M. Griffin