DOCKET FILE COPY ORIGINAL

RECEIVED
JUL 25 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In the Matter of	)	
MCI Telecommunications Corporation Petition for Rulemaking: Billing and Collection Services Provided By Local Exchange Carriers For Non-Subscribed Interexchange Services	)	RM No. 9108 DA 97-1328

AT&T CORP. COMMENTS

Pursuant to Section 1.401 of the Commission's Rules and the Public Notice released June 25, 1997, AT&T Corp. ("AT&T") hereby submits its comments on MCI's Petition For Rulemaking ("Petition"). AT&T supports MCI's petition to the extent that it calls for the partial re-regulation of incumbent LECs' billing and collection ("B&C") arrangements for non-subscribed interexchange services.

I. ILEC BILLING AND COLLECTION IS THE ONLY PRACTICAL MEANS TO BILL FOR NON-SUBSCRIBED INTEREXCHANGE CALLS

As MCI compellingly demonstrates in its Petition, non-subscribed services such as collect calling and third-party billing are a vital segment of the interexchange market, and are particularly important to low-income consumers and customers without residential telephone service.[1] AT&T provides such services to approximately one million billed telephone numbers per

[1] See MCI Petition, pp. 2-4.

No. of Copies rec'd 0+4
List A B C D E

month, and its market data indicate that many non-subscribed callers are customers who were unable to obtain credit from another carrier.

AT&T's market data also strongly support MCI's showing that there currently are no economically feasible means to bill callers for non-subscribed services other than by using existing ILEC billing and collection arrangements. As MCI states, such calling is "occasional and episodic."[2] More than 75% of callers using AT&T's non-subscribed services to place domestic long distance calls incur charges of $10 or less per month. In addition to generating low revenues per customer, these services expose IXCs to significantly greater risks of non-collection; AT&T estimates that its bills for non-subscribed services are four times more likely to be uncollectible than bills for presubscribed long distance calling.

As a result of the factors described above, in the current billing and collection environment AT&T's return on sales for non-subscribed services is more than one-third lower than for presubscribed calling. If AT&T were required to direct-bill for non-subscribed services, its billing-related costs would be almost two and one-half times higher than the average rate it currently pays ILECs for B&C. In light of the low volume and relatively low returns typical of non-subscribed services, this dramatic increase in fixed costs would significantly affect the economics of these offerings. Indeed, if AT&T were required to direct bill non-subscribed callers, it could expect to lose money on many invoices.

AT&T also agrees with MCI that third-party billing -- *e.g.*, by credit card companies, cable companies or utilities -- does not provide an economically feasible alternative to

---

[2] MCI Petition, p. 7.

existing ILEC B&C arrangements.[3] In addition to the shortcomings noted in the Petition, such as the fact that these third parties cannot provide ubiquitous coverage of telephone customers (particularly of low-income callers), AT&T's internal business case analyses indicate its cost to use third party vendors would exceed its costs to direct-bill.

The reasons for ILECs' cost advantage in billing and collection are easily identified. ILECs must incur, as a fixed cost, charges to mail each of their subscribers a monthly bill, and these costs are built into the these carriers' rates. The incremental cost to an ILEC to add a page to its bill for a non-subscribed service provided by an IXC is minimal in comparison to an IXC's cost to create, mail and collect a bill in its entirety in order to collect for what may be a single call. As the amount for which an IXC must bill a given customer grows, an ILEC's incremental cost advantage becomes less and less significant and may be offset by other advantages of direct-billing, such as the ability to communicate directly with customers. But, for the small amounts billed monthly to the vast majority of non-subscribed callers, this cost differential will in many cases exceed an IXC's potential profit on a particular invoice.

The problem the Petition identifies is not a hypothetical one. Like MCI,[4] AT&T was recently informed by a major ILEC that unless AT&T agrees to guarantee that at least 85% of its interexchange traffic will be billed through that ILEC's B&C services, it will nearly double its prices for billing and collection as of the end of 1997. Of course, such a condition could be easily satisfied by that ILEC's long distance affiliate; but for a competing IXC that intends to provide its own billing services to its presubscribed customers or that intends to utilize the B&C

---

3 Id., p. 9.

4 See id., p. 14.

services of a third party, such a requirement is patently unacceptable. The fact that such a volume requirement is not grounded in any legitimate business need underscores its anticompetitive intent.

II. THE COMMISSION SHOULD RE-REGULATE ILEC BILLING AND COLLECTION FOR NON-SUBSCRIBED SERVICES

The Commission's 1985 order detariffing billing and collection expressly held that those functions, although not common carrier services, are subject to the Commission's jurisdiction under Title I of the Communications Act.[5] Thus, the order concluded that the Commission has authority to regulate ILEC B&C practices, and went on to examine whether exercise of the Commission's ancillary jurisdiction would be appropriate. In this regard, the Commission concluded that "because there is sufficient competition to allow market forces to respond to excessive rates or unreasonable billing and collection practices on the part of exchange carriers, no statutory purpose would be served by continuing to regulate billing and collection service for an indefinite period."[6]

AT&T believes that there are two compelling and independently sufficient grounds on which the Commission can and should revisit its 1985 decision not to exercise its Title I authority over ILEC billing and collection for non-subscribed services. First, although the Detariffing Order's findings are broadly phrased, at the time it issued that decision the Commission did not have available any evidence that IXCs could in fact feasibly bill for sporadic, low-revenue services such as those at issue here. Second, under the Telecommunications Act of

---

5 Report and Order, Detariffing of Billing and Collection Services, CC Docket No. 85-88, 102 F.C.C.2d 1150 (1985) ("Detariffing Order"), at 1169.

6 Id., at 1170 (emphasis added).

1996 incumbent LECs are poised to become direct competitors of the entities to whom they provide billing and collection -- a fact which radically alters the economics of these services and ILECs' incentives in pricing them.

The 1985 Detariffing Order rests on the Commission's assumption that B&C competition "will continue to develop" in the future, and that credit card companies, collection agencies, service bureaus and "the customers themselves" -- that is, the IXCs -- would be able to provide billing and collection, and thus to constrain ILECs' pricing of those services.[7] Indeed, the Commission's finding that the B&C market was competitive was conditional: "To the extent that ICs are able to meet their own billing and collection needs, the market acts on the ILEC in much the same way as competition from other third party billing vendors does."[8]

The Detariffing Order recognized that as of its writing, AT&T could not in fact perform B&C services for itself, but the Commission assumed that AT&T would develop that capability.[9] It soon became clear, however, that AT&T could not provide direct-billing to its low-volume customers at costs below ILECs' incremental costs to add IXC billing information to their existing bills. Three years after the Detariffing Order, the Commission disallowed certain expenses that AT&T had incurred in developing its own B&C capabilities, on the grounds that

---

7 See id.

8 Id. (emphasis added).

9 See id., at 1170, n.50 ("While we recognize that AT&T does not have the ability to become completely self-reliant at the present time, the record indicates that AT&T will have this ability to a large extent soon.")

AT&T could have obtained those services at a lower cost by contracting with ILECs.[10] Significantly, even under the billing program at issue AT&T did not propose to direct-bill customers with less than $5 per month in interexchange calls,[11] because it believed that ILECs could bill such callers at lower cost and because callers generally prefer not to write a separate check to an IXC for such small amounts.

Thus the fully competitive B&C environment the Commission envisioned in 1985 has yet to emerge for non-subscribed services. The Detariffing Order never directly addressed the feasibility of other IXCs' or third parties' provision of billing and collection for sporadic, low-volume services, but simply assumed that across-the-board competition in billing and collection was feasible. Shortly thereafter, however, the Commission expressly found that AT&T could not provide B&C on a direct-billed basis at costs competitive with the ILECs' incremental billing expenses, even under a plan that did not seek to direct-bill low-volume users. And, as AT&T and MCI have shown, it remains economically infeasible today for both IXCs and third party billers to direct-bill sporadic, low-volume users. The fundamental premise of the Detariffing Order -- that potential competition for B&C services would constrain prices -- appears to be incorrect in the case of non-subscribed services.

---

10 See AT&T Communications, Revisions to Tariff F.C.C. Nos. 1, 2, 11, 13 ,and 14, CC Docket No. 87-611, Transmittal Nos. 1063 and 1064, 3 F.C.C. Rcd. 6409 (1988); Id., 5 F.C.C. Rcd. 5693 (1990).

11 See Supplemental Direct Case of American Telephone and Telegraph Company, Statement of Timothy M. Connolly, filed July 1, 1988, at 17, and Rebuttal of American Telephone and Telegraph Company, filed July 18, 1988 at 3, in AT&T Communications, Revisions to Tariff F.C.C. Nos. 1, 2, 11, 13 ,and 14, CC Docket No. 87-611. Excerpts from these documents are attached as Exhibits 1 and 2, respectively.

Even more importantly, the enactment of the Telecommunications Act of 1996 fundamentally alters the relationship between ILECs and their B&C "customers." Formerly, local exchange companies rarely competed with IXCs to carry interexchange traffic. Thus, B&C services agreements were essentially arrangements in which buyers and sellers negotiated prices that presumably reflected ILECs' incremental costs to provide those services. Although there do not appear to be any feasible substitutes for ILEC billing and collection of non-subscribed services (and therefore B&C competition does not appear to constrain ILECs' pricing), ILECs formerly had an incentive to price B&C services at a level that would not prevent their IXC "customers" from realizing a profit on them. If ILECs priced B&C uneconomically, IXCs could not afford to offer non-subscribed services -- and ILECs would lose the revenue they could have earned from providing billing and collection.

Under the 1996 Act, however, ILECs that formerly were prohibited from entering the interexchange market (or which elected not to do so for other reasons) are preparing to compete directly with IXCs. In this environment, by raising B&C charges for non-subscribed services, an ILEC can increase its own revenue for billing and collection while at the same time forcing its IXC competitors either to raise their prices or exit the market for these services -- in either case making the ILEC's own non-subscribed interexchange services more attractive to callers. In short, ILECs are now providing B&C services to their direct competitors, which gives them incentives they could not have possessed in 1985 to engage in discrimination, price squeezes and other anticompetitive behavior.

III. ILEC BILLING AND COLLECTION SERVICES SHOULD BE OFFERED ON A NONDISCRIMINATORY BASIS

MCI proposes to seek, through the industry's Open Billing Forum, the creation of an industry clearinghouse for billing and collection of non-subscribed services.[12] AT&T would strongly support such an effort. As MCI observes, however, the creation of a billing clearinghouse will not be a simple task; indeed, it could easily be a matter of years. Until such a solution can be implemented, AT&T strongly supports the transitional re-regulation of ILEC billing and collection for non-subscribed interexchange services. ILECs' threats to raise their prices for billing and collection are not tied to increases in their costs to provide those services, but rather are attempts both to leverage these carriers' market power in local exchange and to injure IXCs' as they seek to enter the ILECs' monopoly strongholds.[13]

Under § 272(c)(1), BOCs are prohibited from discriminating between their interexchange affiliates and other carriers in the provision of "goods, services, facilities, and information." The Commission's Non-Accounting Safeguards Order makes clear that this nondiscrimination provision has a broad scope, and AT&T agrees with MCI that B&C services provided by the BOCs to their § 272 affiliates plainly are subject to its requirements.[14] AT&T also believes that terms and conditions that would make an arrangement facially unacceptable to entities not affiliated with a BOC would also violate § 272(c)(1), such as requiring an IXC to

---

12 See MCI Petition, pp. 9-10.

13 Industry standards such as those MCI proposes will be crucial if competitive LECs are to develop the infrastructure and contractual arrangements necessary to bill for non-subscribed services. Unlike ILECs, which have had years to develop B&C arrangements, CLECs will be assembling billing and collection systems from the ground up.

14 See MCI Petition., pp. 13-14.

commit 85% of its total volume or all of its volume growth.[15] However, the protection afforded by § 272(c)(1) is inadequate in two respects: First, because that section applies only to the BOCs and not to other ILECs; and second, because a simple nondiscrimination requirement is inadequate to prevent an ILEC from engaging in a price squeeze.

Because other ILECs present the same risks of anticompetitive conduct as the BOCs with regard to B&C services,[16] the Commission should craft a nondiscrimination requirement applicable to all incumbent LECs. Such a rule should require ILECs to offer the same, nondiscriminatory terms and conditions for B&C to all carriers as those the ILEC offers to itself or its affiliates.

A nondiscrimination requirement, however, is not sufficient to prevent an ILEC from attempting a B&C price squeeze. When an ILEC affiliate "pays" billing and collection charges to its ILEC sibling, the monies exchanged flow to the same corporate bottom line. Thus, B&C pricing represents a classic "left pocket to right pocket" transaction -- an ILEC (or its parent company) will be completely insensitive to the price of B&C services. For competitors, however, B&C charges represent real costs. An ILEC that simply imposed the same inflated B&C charges on itself that it charged to IXCs would not violate a simple nondiscrimination provision. In order

---

15 See, e.g., First Report and Order and Further Notice of Proposed Rulemaking, Implementation of Non-Accounting Safeguards of Sections 271 and 272 of the Telecommunications Act of 1934, as Amended, CC Docket No. 96-149, FCC 96-489, released December 24, 1996, ¶ 212.

16 Cf. Second Report and Order, Regulatory Treatment of LEC Provision Of Interexchange Services Originating In The LEC's Local Exchange Area, CC Docket No. 96-149, FCC 97-142, released April 18, 1997, ¶¶ 159-160 (finding that independent ILECs, like BOCs, can abuse their market power to engage in anticompetitive practices designed to advantage their interexchange affiliates).

to address this problem, the Commission's should require that charges for billing and collection be reasonable, and should adopt a presumption that any increase in ILEC's B&C rates currently in force that cannot be shown to be directly attributable to increased costs to provide those services do not satisfy that standard.

CONCLUSION

For the reasons stated above, AT&T supports MCI's Petition to the extent that it seeks to re-regulate ILEC billing and collection for non-subscribed services.

Respectfully submitted,

AT&T CORP.

By

Mark C. Rosenblum
Ava B. Kleinman
James H. Bolin, Jr.

Its Attorneys

Room 3247H3
295 North Maple Avenue
Basking Ridge, NJ 07920
(908) 221-4617

July 25, 1997

EXHIBIT 1

28341

RECEIVED

JUL - 1 1988

Federal Communications Commission
Office of the Secretary

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

In the Matter of	)	
	)	
AT&T Communications	)	CC Docket No. 87-611
	)	
Revisions to Tariff F.C.C. Nos. 1, 2, 11, 13 and 14	)	

SUPPLEMENTAL DIRECT CASE OF AMERICAN TELEPHONE AND TELEGRAPH COMPANY

Francine J. Berry
David P. Condit
Peter H. Jacoby

295 North Maple Avenue
Basking Ridge, New Jersey 07920

Attorneys for American Telephone and Telegraph Company

July 1, 1988

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

In the Matter of	)	
	)	
AT&T Communications Company	)	CC Docket No. 87-611
	)	
Revisions to Tariff F.C.C. Nos. 1, 2, 11, 13 and 14	)	

STATEMENT OF TIMOTHY M. CONNOLLY

My name is Timothy M. Connolly. I am District Manager of AT&T Billing Regulatory Matters, in the Finance Department of AT&T. In this capacity, I am responsible for analyzing AT&T's customer account management plans and reviewing the financial records associated with implementation and operations of AT&T's billing and collection program. I report the results of my evaluations to senior management and recommend appropriate means of accomplishing AT&T's customer service objectives that are being implemented through this program.

The purpose of my statement is to describe some of the reasons that AT&T senior management decided to implement an internal billing system and to review the benefits that internal billing provides to customers. In addition, I will describe and explain AT&T's MTS billing implementation schedule.

Finally, by giving AT&T, rather than 1400 LECs, control over all of AT&T's customer billing information and service usage data, AT&T's billing program substantially increases AT&T's ability to monitor the quality of the information and data and to find and correct errors promptly.

AT&T's billing program will provide substantial benefits to all its customers, including AT&T customers with less than $5 per month in interexchange calls ("light users") and customers served by non-equal access end offices, who will continue to be billed by the LECs. AT&T's contracted LEC billing and collection services for these customers is relatively more cost-effective, due to the low volumes of calls made by these customers.* The LECs will perform for AT&T only the mechanical functions of rendering the bill and collecting payment from AT&T light users. By using the capabilities of its billing program and industry-wide standard interface specifications (such as Customer Account Record Exchange ("CARE") and Billing Name and Address ("BNA")), which allow efficient transfer of customer information between LECs and IXCs, AT&T will obtain the same customer information and data which it will receive for its

* In addition, customers have informed AT&T that they do not wish to receive separate interexchange bills for small amounts.

EXHIBIT 2

2 8112

RECEIVED

JUL 1 9 1988

Federal Communications Commission
Office of the Secretary

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

In the Matter of	)	
	)	
AT&T Communications Revisions to Tariff F.C.C. Nos. 1, 2, 11, 13 and 14	)	CC Docket No. 87-611
	)	
	)	

REBUTTAL OF AMERICAN TELEPHONE AND TELEGRAPH COMPANY

Pursuant to the Commission's June 7, 1988 Order in this proceeding,* American Telephone and Telegraph Company ("AT&T") hereby submits its rebuttal to the comments on AT&T's Supplemental Direct Case filed by The Organization for the Protection and Advancement of Small Telephone Companies ("OPASTCO"). OPASTCO asks the Commission to preserve its members' current contractual arrangements, under which those companies provide billing and collection services for AT&T, because those arrangements are assertedly in the best interests of AT&T and its customers. OPASTCO at 1, 3. The relief OPASTCO seeks is beyond the scope of this proceeding, which is concerned with the appropriate level and accounting treatment of AT&T's MTS billing program costs; in all events, the factual grounds for OPASTCO's claims are incorrect.

* AT&T Communications (Transmittal Nos. 1063 and 1064), Memorandum Opinion and Order, DA 88-355, released June 7, 1988.

Case and Supplemental Direct Case demonstrate -- and as the Commission has acknowledged -- it is the implementation of AT&T's MTS billing program that has provided the competitive incentive for the LECs to charge lower rates for billing services than they otherwise would.*

OPASTCO further asserts (p. 2) without support that the billing services of its members are less costly and more efficient than AT&T's MTS billing program. To the contrary, the Supplemental Direct Case demonstrates that the implementation of AT&T's MTS billing program is achieving substantial cost savings for the company and its ratepayers.** AT&T also stated that, where LEC billing services do provide efficiencies, such as in the mailing of bills to and the collection of payments from low-volume customers, AT&T intends to continue using LEC services.*** Thus, AT&T's program will maximize both cost effectiveness and billing efficiency.

In all events, OPASTCO's apparent request that AT&T be required to continue use of its members' billing services is beyond the scope of this investigation. The sole issues

---

* See Supplemental Direct Case, pp. 15-16; AT&T Communications (Transmittal Nos. 772, 773 and 774), 2 FCC Rcd 1593, 1597 (1986).

** See Supplemental Direct Case, pp. 11-19; Attachment 1 (Ambrose Statement), pp. 17-22.

*** Supplemental Direct Case, p. 14; Connolly Statement, p. 17.

CERTIFICATE OF SERVICE

I, Terri Yannotta, do hereby certify that on this 25th day of July, 1997 a copy of the foregoing "AT&T Corp. Comments" was mailed by U.S. first class mail, postage prepaid, to the parties listed below.

Mary L. Brown
Donna M. Roberts
MCI Telecommunications Corporation
1801 Pennsylvania Ave., N.W.
Washington, DC 20006

David Alan Nall
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
Post Office Box 407
Washington, DC 20044
(Attorney for MCI Telecommunications Corporation)

Terri Yannotta

July 25, 1997