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July 28, 1997

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Daniel M. Armstrong
Office of General Counsel
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-61, Part II
Further Request for Resolution of GTE Service Corporation's Pending Petition for Reconsideration and Clarification or, in the Alternative, for Extension of Tariff Effective Date

Dear Mr. Armstrong:

GTE Service Corporation ("GTESC"), on behalf of its affiliated telecommunications companies, hereby renews its request that the Commission promptly, and in any event no later than July 31, 1997, issue a decision on the merits of GTESC's pending Petition for Reconsideration and Clarification ("Petition") in the above-referenced docket or, in the alternative, extend the August 1 tariff effective date. As explained below, the Petition has been pending for ten months, and GTESC has exhausted its available administrative and judicial remedies.

In a Report and Order released August 7, 1996, the FCC determined that Section 254(g) of the Telecommunications Act, 47 U.S.C. § 254(g), requires GTE Corporation to integrate the rates charged by its affiliates for interexchange services, including services offered to subscribers in the Commonwealth of the Northern Mariana Islands ("CNMI") by the Micronesian Telecommunications Corporation ("MTC").[1] On September 16, 1996, GTESC sought reconsideration of this aspect of the *Report and Order* as unlawful, arbitrary, and contrary to the public interest. Despite the passage of ten months since the Petition was filed and the numerous pleas to the FCC and the Court to prompt an agency decision, the FCC has yet to act.

GTESC and MTC have availed themselves of every possible avenue for seeking agency action on the Petition:

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1 *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, 11 FCC Rcd 9564 (1996) (*"Report and Order"*).

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- On May 30, a letter request for agency action was submitted to the FCC.
- On June 17, a Motion for Partial Stay or Request for Extension was filed with the FCC. In that motion, GTESC and MTC first warned the FCC of the harm to competitors that the FCC's approach would cause.[2]
- On June 17, an Emergency Petition for a Writ of Mandamus was filed with the Court.
- On July 1, an Emergency Motion for Partial Stay was filed with the Court.

In its Opposition to the mandamus petition, the FCC emphasized repeatedly its plans to have a draft order addressing GTESC' Petition ready for review by the Commissioners by July 15, 1997.[3] Specifically, the agency reported that the "Common Carrier Bureau has prepared a proposed order addressing GTE's petition for reconsideration and expects to have it ready by July 15 for consideration by the Commissioners. There is no reason to assume that the Commissioners will fail to act promptly."[4] On July 16, 1997, the Court denied the Emergency Petition for a Writ of Mandamus without prejudice, noting the Commission's intent to act on the Petition.[5]

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[2] "Requiring MTC to offer significantly low rates could disadvantage MTC's long distance competitors, PCI Communications, Inc. ("PCI") and IT&E Overseas Inc. ("IT&E"). Because these competitors do not have any affiliates on the U.S. Mainland with which to integrate rates, they will face a Hobson's choice of continuing to charge rates that reflect the higher cost of providing service in the CNMI, or operating at a loss for those services." Motion for Partial Stay or Request for Extension, CC Docket No. 96-61, Part II, at 22 (filed June 17, 1997). GTESC and MTC restated this concern in subsequent pleadings before the Court. *See* Emergency Petition for a Writ of Mandamus, Case No. 97-1402, at 13 (D.C. Cir.) (filed June 17, 1997); Emergency Motion for Partial Stay, Case No. 97-1402, at 18-19 (D.C. Cir.) (filed July 1, 1997).

[3] *See* Opposition of the Federal Communications Commission to Emergency Petition for a Writ of Mandamus, Case No. 97-1402 (D.C. Cir.) (filed June 26, 1997) ("FCC Opposition to Mandamus Petition").

[4] FCC Opposition to Mandamus Petition at 1.

[5] *See* GTE Service Corporation and Micronesian Telecommunications Corporation, Order, Case No. 97-1402 (D.C. Cir. July 16, 1997) (Attachment A). In the same Order, the Court also denied the Emergency Motion for Partial Stay with Judge Ginsburg ruling in favor of granting the stay request.

Two weeks have now passed since the Court's order, and the FCC still has not acted. Nor has it expressed any intent to do so in the near future. GTE-affiliated carriers are now facing an August 1 effective date for their tariffs.

In the meantime, MTC has also encountered petitions to reject or, in the alternative, to suspend and investigate, its tariff revisions.[6] The petitions allege predatory pricing by MTC. Specifically, one petitioner, PCI Communications, Inc. ("PCI"), asserts as follows:

> [I]t is clear that MTC's proposed rates are predatory, unreasonable and designed to drive competition from the marketplace. MTC proposes an off-peak per minute rate of $0.14 for calls between the CNMI and Guam. Yet MTC's call origination rate is $0.12 . . . and the call termination rate of Guam Telephone Authority is between $0.06-0.065. The combined charges for origination and termination – $0.18 -0.185 – by themselves exceed MTC's proposed long distance rate. They do not include, moreover, any of MTC's costs for transport between the CNMI and Guam, presumably on the new inter-island cable which it owns. MTC, which has previously stated that it will charge itself the same rates on the cable which its sets for its competitors, has apparently ignored these costs completely from its calculations.[7]

PCI also claims that "MTC's other proposed long distance rates are no less problematic,"[8] alleging that the termination rates MTC is proposing for Hawaii and Alaska are not cost-based. According to PCI, "MTC's proposed rates take full advantage of the carrier's dominant position as the sole local exchange carrier serving the CNMI, and the sole owner of the inter-island cable, to drive its interexchange carrier competitors out of the market."[9]

In light of the foregoing, GTESC again urgently requests that the Commission act on its Petition for Reconsideration and Clarification, or, as a minimum, extend the August 1, 1997, tariff effective date. Deadlines have passed despite the Commission's declarations to the Court that it

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6 *See* Petition of PCI Communications, Inc. To Reject, or in the Alternative, To Suspend and Investigate MTC Transmittal No. 133 (filed July 24, 1997) ("PCI Petition") (Attachment B); Petition of IT&E Overseas, Inc. to Reject, or Alternatively, To Suspend and Investigate MTC Transmittal No. 133 (filed 24, 1997) ("IT&E Petition") (Attachment C).

7 PCI Petition at 3; *see also* IT&E Petition at 3 ("MTC's proposed rates for calls originating from the CNMI and terminating on Guam are as low as $0.14 per minute. Such a rate, however, is well below the costs that MTC would be expected to incur in obtaining originating and terminating access services.").

8 PCI Petition at 3.

9 *Id.* at 4.

would act promptly, and now MTC faces challenges to its tariff revisions. If the Commission has not acted by July 31, 1997, GTESC and MTC intend to renew their petition for a writ of mandamus before the Court.

Sincerely,

R. Michael Senkowski

R. Michael Senkowski

cc: William E. Kennard
John E. Ingle
Laurel R. Bergold
Peter Cowhey
Regina Keeney
Parties of Record

ATTACHMENT A

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 97-1402 **September Term, 1996**

In re: GTE Service Corporation and Micronesian Telecommunications Corporation,
Petitioners

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
FILED
JUL 16 1997
CLERK

Commonwealth of the Northern Mariana Islands,
Intervenor

BEFORE: Ginsburg*, Sentelle, and Tatel, Circuit Judges

ORDER

Upon consideration of the emergency petition for writ of mandamus, the opposition thereto, and the reply; and the emergency motion for partial stay, the oppositions thereto, and the reply, it is

ORDERED that the emergency petition for writ of mandamus be denied without prejudice to its renewal. The Commission has indicated that it is near acting on the petition for reconsideration and its delay in responding does not appear unreasonable in light of the competing priorities created by the enactment of the Telecommunications Act of 1996. *See Telecommunications Research and Action Center v. FCC*, 750 F.2d 70, 80 (D.C. Cir. 1980). It is

FURTHER ORDERED that the emergency motion for partial stay be denied. Petitioners have not satisfied the stringent standards required for a stay pending court review. *See Washington Metropolitan Area Transit Comm'n v. Holiday Tours*, 559 F.2d 841 (D.C. Cir. 1977); *D.C. Circuit Handbook of Practice and Internal Procedures*, 59-60 (1997).

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: John T. Haley
Deputy Clerk/LD

* Judge Ginsburg would grant the emergency motion for partial stay.

ATTACHMENT B

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Micronesian Telecommunications Corporation	)	Transmittal No. 133
	)	
	)	
Revisions to Tariff F.C.C. Nos. 1 and 4	)	

PETITION OF PCI COMMUNICATIONS, INC. TO REJECT OR, IN THE ALTERNATIVE, TO SUSPEND AND INVESTIGATE

PCI Communications, Inc. ("PCI"), by its attorney and pursuant to Section 1.773 of the Commission's rules, 47 C.F.R. § 1.773, hereby petitions the Commission to reject or, in the alternative, to suspend and investigate, the revisions proposed by Micronesian Telecommunications Corporation ("MTC") to its Tariff F.C.C. Nos. 1 and 4 pursuant to Transmittal No. 133, with an effective date of August 1, 1997. Filed under protest, the rates proposed by MTC through this transmittal do not, as MTC alleges, comply with the requirements of Section 254(g) of the Communications Act of 1934, as amended, governing rate integration, and are both unreasonable and predatory.

STATEMENT OF INTEREST

PCI is a common carrier organized under the laws of the Territory of Guam. Pursuant to authority granted by the Commission under Section 214 of the Act, and through tariffs filed with the Commission, PCI provides resold domestic interstate and international telecommunications services between the United States and various overseas points. A significant portion of PCI's's traffic travels between points in Guam and the Commonwealth of the Northern Mariana Islands ("CNMI"). Thus, PCI is not only a competitor of MTC on the latter route, but as a resale carrier, a potential purchaser of services offered by MTC through its Tariff F.C.C. No. 4.

BACKGROUND

In its Report and Order in CC Docket No. 96-61, Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, 11 FCC Rcd 9564 (1996) ("Rate Integration Order"), the Commission established rules to implement Section 254(g) of the Act, as amended, to require interexchange carriers to integrate and average the rates they charge for service. Specifically, Section 254(g) of the Act requires the Commission to

> ... adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange services shall provider such services to its subecribers in each State at rates no higher than the rates charged to its subscribers in any other State.

In its Report and Order, the Commission adopted new rule section 64.1801 to implement this directive, specifically applying it to interexchange services provided to U.S. possessions and territories, including Guam, the CNMI and American Samoa. 11 FCC Rcd at 9596, 9605. With respect to interexchange services provided between any U.S. state, territory or possession and these insular points, the Commission set August 1, 1997 as the deadline for compliance with the new rule, and directed carriers serving Guam and the CNMI (including GTE, MTC's parent corporation) to submit preliminary and final plans to achieve rate integration by that deadline. Id. at 9805.

In Transmittal No. 133, MTC states that its proposed rates for service from the CNMI are "filed under protest" but are otherwise "in compliance with the requirements of the Communications Act of 1934, as amended" and specifically "in conformance with" the Rate Integration Order. Transmittal Letter, p. 1. The latter assertions, however, are plainly untrue, as a cursory review of MTC's filing illustrates.

As a threshold matter, for example, it is clear that MTC's proposed rates are predatory, unreasonable and designed to drive competition from the marketplace. MTC proposes an off-peak per minute rate of $0.14 for calls between the CNMI and Guam. Yet MTC's call origination rate is $0.12, as reflected in its local exchange tariff, and the call termination rate of Guam Telephone Authority is between $0.06-0.065. The combined charges for origination and termination -- $0.18-0.185 -- by themselves exceed MTC's proposed long distance rate. They do not include, moreover, any of MTC's costs for transport between the CNMI and Guam, presumably on the new inter-island cable which it owns.[1] MTC, which has previously stated that it will charge itself the same rates on the cable which it sets for its competitors, has apparently ignored these costs completely from its calculations.

MTC's other proposed long distance rates are no less problematic. While time

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[1] As PCI has previously demonstrated, MTC's proposed rates on the inter-island cable are exorbitantly high and contravene the Commission's Rate Integration Order. See Petition of PCI Communications, Inc. to Reject or, in the Alternative, to Suspend and Investigate MTC Transmittal No. 132, filed July 14, 1997.

constraints do not allow PCI to determine call termination rates for Hawaii (where MTC would presumably correspond with its parent GTE Hawaiian Telephone) and Alaska, it is highly unlikely that MTC's proposed off peak rates of $0.17 per minute for those destinations are cost based in view of MTC's $0.12 per minute call origination charge. Likewise, in order for MTC to recoup its costs for peak period calls to Guam, its per minute costs for transport on the inter-island cable or satellite would need to be no more than $0.085-0.09 ($0.27 less call origination and termination costs of $0.18-0.185), a highly unlikely scenario given the high rates which MTC and COMSAT are charging for their respective facilities.

Based on the above, it is obvious that MTC's proposed rates take full advantage of the carrier's dominant position as the sole local exchange carrier serving the CNMI, and the sole owner of the inter-island cable, to drive its interexchange carrier competitors out of the market. It would also appear that MTC's non-compensatory rates may be subsidized by revenues from the operations of its GTE affiliates -- an option not available to island-based carriers like PCI. Such anticompetitive conduct plainly violates MTC's duties under Section 201 of the Act to charge "just and reasonable" rates and should not be countenanced.

MTC's Transmittal No. 133 also violates the requirements of the Rate Integration Order. MTC includes in its transmittal individual case basis half circuit rates for private line service to Hawaii and the U.S. mainland. Contrary to the requirements of the Rate Integration Order, however, these rates are not geographically averaged with MTC's other private line offerings and those of its GTE affiliates. 11 FCC Rcd at 9596-9599. Nor has

MTC amended its tariff to include rate averaged charges for the inter-island cable. While MTC has previously argued that the principle of rate integration does not extend to private line services, this view is clearly contrary to the mandate of the Rate Integration Order. Id.

Finally, MTC's Transmittal No. 133 does not include rates for traffic between the CNMI and American Samoa. The omission of this route clearly contravenes the Commission's mandate in the Rate Integration Order.

CONCLUSION

For the foregoing reasons, PCI respectfully urges the Commission to reject, or suspend and investigate, the tariff revisions proposed by MTC in its Transmittal No. 133.

Respectfully submitted,

PCI COMMUNICATIONS, INC.

By: ______________________

Eric Fishman
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Rosslyn, VA 22209
(703) 812-0400

July 24, 1997

ATTACHMENT C

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

In the Matter of	)	
	)	
Micronesian Telecommunications Corporation	)	Transmittal No. 133
	)	
	)	
Revision to Tariff No. 4	)	

To: Chief, Common Carrier Bureau

PETITION TO REJECT, OR ALTERNATIVELY, TO SUSPEND AND INVESTIGATE

I. INTRODUCTION

IT&E Overseas, Inc. ("IT&E"), by its attorneys and pursuant to Section 1.773(a) of the Rules of the Federal Communications Commission ("FCC" or the "Commission"), 47 C.F.R. § 1.773(a), respectfully requests the Commission to reject, or alternatively, to suspend and investigate, the revisions proposed by Micronesian Telecommunications Corporation ("MTC") to its Tariff FCC No. 1 through Transmittal No. 133.[1] Specifically, IT&E urges the Commission to declare as unlawful all of the per-minute rates listed on Page 16C of MTC's proposed Tariff FCC No. 1, Transmittal No. 133. As demonstrated herein, MTC's proposed reduction in rates is not justified by the necessary cost-support materials and permits MTC to continue its long-standing anticompetitive practices to the detriment of competing interexchange carriers such as IT&E.

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[1] Since MTC's Transmittal No. 133, Tariff FCC No. 1, was issued on July 17, 1997, under Section 204(a)(3) of the Communications Act of 1934, as amended ("Communications Act"), 47 U.S.C. § 204(a)(3), on 15 days' notice, the deadline for filing petitions to reject, investigate, or suspend the tariff filing is July 24, 1997. See 47 C.F.R. § 1.773(a)(2)(ii). Thus, this Petition is timely filed.

II. MTC'S PROPOSED RATES REFLECT AN ATTEMPT TO EXPLOIT ITS DOMINANT CARRIER STATUS

MTC, a subsidiary of GTE Hawaiian Telephone Company, which in turn is a subsidiary of GTE Corporation, is not only a monopoly provider of local exchange and exchange access services to the Commonwealth of the Northern Mariana Islands ("CNMI"), but also a dominant carrier providing interexchange services to the CNMI. Because MTC provides local exchange, exchange access, and interexchange services on a structurally integrated basis, it is subject to the full panoply of dominant carrier regulation. See Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area, CC Docket No. 96-149, ¶ 173 (released April 18, 1997) ("LEC Provision of Interexchange Services").[2]

As a dominant interexchange carrier, MTC is required, among other things, to tariff its rates in accordance with the FCC's price cap rules and to provide necessary supporting materials with each tariff filing. See 47 C.F.R. §§ 61.41 - 61.49. MTC, however, failed to include the necessary supporting materials in its filing of Transmittal No. 133, in express violation of Section 61.49 of the FCC's Rules, 47 C.F.R. § 61.49. Because of MTC's failure to provide such supporting materials with its tariff filing, it is impossible for the Commission and others to determine whether MTC's proposed rates have been established in compliance

[2] In order to qualify as a nondominant carrier in its provision of interexchange services, MTC must provide interexchange services, on the one hand, and local exchange and exchange access services, on the other hand, through separate affiliates meeting the following three requirements: (1) the affiliates must maintain separate books of account; (2) the affiliates must not jointly own transmission or switching facilities; and (3) the interexchange affiliate must acquire any services from its local exchange affiliate at tariffed rates, terms, and conditions. See Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, 98 FCC 2d 1191, 1198-99 (1984). Since MTC currently does not provide interexchange services and local exchange and exchange access services through separate affiliates that meet the above-mentioned separations requirements, MTC must be treated as a dominant, rather than nondominant, carrier in its provision of interexchange services. The Commission, however, has required MTC to comply with its separations requirements by April 18, 1998. See LEC Provision of Interexchange Services, ¶ 173.

with the FCC's price cap rules.

It also appears that MTC's tariff filing is not in conformance with the requirements of Section 61.54 of the FCC's Rules, 47 C.F.R. § 61.54, governing the composition of tariff materials. For example, no indication has been made that MTC's proposed rates, as set forth on Page 16C of its proposed tariff, in fact reflect a reduction in its currently effective rates.

More importantly, it appears that MTC's proposed interstate, interexchange rates fail to incorporate the access charges which MTC is required to impute to itself under FCC rules and policies. Under Transmittal No. 133, MTC proposes rates that range between $0.14 and $0.50 per minute for calls between the CNMI and elsewhere in the United States. See MTC Transmittal No. 133, Tariff FCC No. 1, at 16C (filed July 17, 1997). In particular, MTC's proposed rates for calls originating from the CNMI and terminating on Guam are as low as $0.14 per minute. Such a rate, however, is well below the costs that MTC would be expected to incur in obtaining originating and terminating access services.

In order to provide interexchange service originating from the CNMI and terminating on Guam, MTC would need to purchase originating access service from itself pursuant to the GTE Telephone Operating Companies ("GTOC") Tariff FCC No. 1, as well as terminating access service from the Guam Telephone Authority, the monopoly local exchange carrier serving Guam, pursuant to the National Exchange Carrier Association Tariff FCC No. 5 ("NECA"). Currently, originating access charges under the GTOC access tariff are in excess of $0.18 per minute,[3] while terminating access charges under the NECA access tariff are in

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[3] Under the current GTOC access tariff, the originating Carrier Common Line rate is $0.10 per minute, the originating Local Switching rate is $0.051 per minute, and the residual Transport Interconnection charge is $0.033 per minute. See GTOC Transmittal No. 1100, Tariff FCC No. 1, at 142.1.2, 143.1, 308.3.8 (filed June 16, 1997, and effective July 1, 1997). Thus, these rates alone, which comprise only a portion of the total originating access charges, amount to at least $0.18 per minute.

excess of $0.06 per minute.[4] Thus, in providing interexchange service originating from the CNMI and terminating on Guam, MTC's total access costs should be at least $0.24 per minute, which is almost twice as much as its proposed rate for service between the CNMI and Guam. Moreover, even assuming that MTC's total originating access costs are no more than $0.18 per minute, such costs alone represent a disproportionate share of MTC's proposed rates for interstate, interexchange calls between the CNMI and elsewhere in the United States.

Consequently, MTC's below-cost rates offer strong evidence that MTC fails to impute access charges to itself in violation of Sections 201(b) and 202(a) of the Communications Act, 47 U.S.C. §§ 201(b), 202(a), and the FCC's established policy requiring imputation of access charges. As early as 1985, the Commission specifically ordered the imputation of access charges for services under its jurisdiction, including interstate, local exchange services and corridor services. See Application of Access Charges to the Origination and Termination of Interstate, IntraLATA Services and Corridor Services, FCC 85-172, ¶¶ 9-11 (released Apr. 12, 1985) ("Imputation Order"). In the Imputation Order, the FCC found that:

> The nationwide application of switched and special access charges to interstate, interLATA services and corridor services will promote full and fair competition in these markets by ensuring that all carriers, when acting as [IXCs], will pay full access charges for origination and termination of these services. This promotion of competition is consistent with the overall Commission objective of establishing rational and efficient rate structures to maximize efficient use of the telecommunications network and realize the benefits from increasing competition.

Id. at ¶ 11. Accordingly, the FCC found that the imputation of access charges is a necessary safeguard against potential cross-subsidization and anticompetitive pricing by LECs.

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4 Under the current NECA access tariff, the terminating Carrier Common Line rate is $0.0076 per minute, the terminating Local Switching rate is $0.0404 per minute, and the residual Transport Interconnection charge is $0.015 per minute. See, e.g., NECA Transmittal No. 758, Tariff FCC No. 5, at 17-1, 17-10.2, 17-11 (filed June 16, 1997, and effective July 1, 1997). Thus, these rates alone, which comprise only a portion of the total terminating access charges, amount to at least $0.06 per minute.

Despite established FCC policy requiring imputation of access charges, MTC has the incentive and ability not to impute access charges to itself. By failing to impute to itself the access charges which it collects from its interexchange competitors such as IT&E, MTC is able to gain an unfair competitive advantage over its competitors and engage in predatory pricing below its actual costs. Moreover, in the absence of relevant cost-support materials, it is impossible to determine whether in fact MTC has imputed access charges to itself.

Furthermore, because MTC does not appear to charge itself the same access rates which its interexchange competitors are required to pay, it has every incentive to extract unreasonably excessive and discriminatory access charges from its competitors in violation of Sections 201(b) and 202(a) of the Communications Act, 47 U.S.C. §§ 201(b), 202(a). Certainly, MTC's current originating access charges of at least $0.18 per minute, compared with NECA's originating access charges of at least $0.06 per minute, suggest that MTC's access charges are unjust and unreasonable. By engaging in such price gouging, MTC is able to cross-subsidize the costs of its interstate, interexchange operations with monopoly revenues from its exchange access services, in violation of Section 254(k) of the Act, 47 U.S.C. § 254(k),[5] and the FCC's cost allocation rules, as set forth in Parts 64 and 69 of the FCC's

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[5] Section 254(k) of the Communications Act, 47 U.S.C. § 254(k), prohibits telecommunications carriers from "us[ing] services that are not competitive to subsidize services that are subject to competition." In implementing the accounting safeguards of the Communications Act, the FCC affirmed that all incumbent LECs must comply with its cost allocation rules when such carriers provide regulated and nonregulated services on an integrated basis. See Implementation of the Telecommunications Act of 1996, CC Docket No. 96-150, ¶ 1 (released Dec. 24, 1996).

Rules.[6] Such cross-subsidization serves to further disadvantage MTC's interexchange competitors by allowing MTC to set rates below competitive levels.

Since MTC currently is not required by the Commission to provide interstate, interexchange services through a separate affiliate, minimal regulatory safeguards exist to ensure that MTC charges itself the same access rates that are imposed on competing interexchange carriers and does not engage in unlawful cross-subsidization. MTC's proposed below-cost rates are clear evidence of MTC's attempt to exploit its dominant market position and engage in unlawful, anticompetitive practices. MTC should not be permitted to benefit from such market abuse, and the Commission should take immediate action to prevent such abuse.

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6 Parts 64 and 69 of the FCC's Rules set forth specific requirements for the allocation of costs by telecommunications carriers providing regulated and nonregulated services and local exchange and interexchange services on an integrated basis. Under these cost allocation rules, incumbent LECs such as MTC are prohibited from apportioning the costs of interexchange services to local exchange services and the costs of nonregulated activities to regulated products and services. See 47 C.F.R. §§ 64.901-.904, 69.301-414. In affirming its cost allocation rules, the Commission expressly noted that such rules were developed to "help ensure that interstate ratepayers do not bear the costs and risks of the telephone companies' nonregulated activities." See Implementation of the Telecommunications Act of 1996, ¶ 50. In addition, the Commission proposed to strengthen its cost allocation rules by classifying interstate, interexchange services as nonregulated activities under Part 64 of its rules. Id. at ¶ 76. The Commission noted that this action "will achieve greater accuracy in safeguarding against cross-subsidization." Id.

III. CONCLUSION

Based on the foregoing, IT&E respectfully requests the Commission to reject or, alternatively, to suspend and investigate the tariff revisions proposed in MTC's Transmittal No. 133, Tariff FCC No. 1.

Respectfully submitted,

IT&E OVERSEAS, INC.

By: ______________________

Margaret L. Tobey, P.C.
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Its Attorneys

July 24, 1997