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Before the  
Federal Communications Commission  
Washington, D.C. 20554

OCT - 2 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matters of: )  
)  
Changes to the Board of )  
Directors of the National Exchange )  
Carrier Association, Inc. )  
)  
Federal-State Joint Board on )  
Universal Service )

CC Docket No. 97-21

CC Docket No. 96-45

**OPPOSITION  
TO PETITIONS FOR RECONSIDERATION**

**I. Introduction**

Four Bell Operating Companies (Petitioners) have recently petitioned the Commission to reconsider its decision to retain inside wire revenues as part of the contribution base for federal universal service support.<sup>1</sup> They argue that:

- ▶ inside wire services are neither telecommunications services, nor telecommunications;
- ▶ including inside wire revenues in the universal service contribution base goes against the Commission's decision to exclude these revenues;
- ▶ including inside wire revenues discriminates against the inside wire maintenance business of those LECs that have not established separate affiliates to offer inside wire maintenance services.

<sup>1</sup>Joint Petition for Reconsideration, Nevada Bell, Pacific Bell, and Southwestern Bell, Federal-State Joint Board on Universal Service, *Joint Petition*, CC Docket No. 96-45, August 29, 1997; and Petition for Partial Reconsideration, Bell Atlantic, *Bell Atlantic Petition*, CC Docket No. 96-45, September 2, 1997.

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MCI opposes these petitions. In these comments MCI shows that inside wire services are telecommunications services; that the Commission never decided to exclude inside wire revenues in the Universal Service Order; and that inclusion of inside wire revenues in the contribution base does not discriminate against these petitioners in relation to other LECs that have established separate affiliates to offer inside wire maintenance services.

## **II. Inside Wire Services Are Telecommunications Services**

### **A. Inside Wire Services Are Incidental Telecommunications Services**

The Universal Service Joint Board determined that the contribution base for the universal service fund would include "...revenues derived from end users for telecommunications and telecommunications services."<sup>2</sup> The Petitioners argue that inside wire maintenance revenues are not telecommunications revenues because inside wiring is not part of a carrier's network.<sup>3</sup>

However, nowhere is it stated that the facility upon which service is provided must be part of a carrier's network in order to be considered a telecommunications service. Petitioners do not contest the inclusion of revenues from collocated facilities, yet those facilities are not part of its network. Neither do they contest the inclusion of pole attachment revenues, which are included in line 26 and 38 of the Worksheet. Pole attachment services are telecommunications services provided to another carrier's facilities. In both cases, the facilities are telecommunications facilities owned by others, and are not part of the carriers network. The reporting carriers provide the service of maintaining the telecommunications facilities of another. These services are

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<sup>2</sup>Federal-State Joint Board on Universal Service, Report and Order, (*Universal Service Order*), CC Docket No 96-45, May 8, 1997, at ¶844.

<sup>3</sup>Joint Petition at 2.

essentially the same services the carrier provides for its own telecommunications facilities. These services are therefore incidental to the carrier's own telecommunications facilities and are therefore properly counted as telecommunications services. Therefore, as an incidental network operation service, no special explanation is required in order to include its revenues in the universal service contribution base.<sup>4</sup>

**B. The Commission Never Excluded Inside Wire Maintenance Revenues from the Contribution Base**

Petitioners attempt to parlay the Commission's discussion of inside wire into support for the position that standard inside wire maintenance contracts are not telecommunications services.

*We find that, as discussed above, the Act permits universal service support for an expanded range of services beyond telecommunications services. Specifically, we [include the] installation and maintenance of internal connections.<sup>5</sup>*

The Commission's discussion is intended to justify making discounts available to schools and libraries that purchase, rather than lease, inside wire.<sup>6</sup> The Commission's use of the term "beyond," in the quote above, refers to "beyond services," not beyond telecommunications. The

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<sup>4</sup>It was because inside wire services were incidental telecommunications services, that the Commission concluded that inside wiring installation and maintenance were severable from common carrier transmission services. That is, inside wiring services were telecommunications services, even though they were not common carrier services. See, *Detariffing the Installation and Maintenance of Inside Wiring*, CC Docket No 79-105, 1 FCC Rcd 1190, 1192 ¶16 (1986).

<sup>5</sup>Universal Service Order at ¶451.

<sup>6</sup>Id at ¶452.

Commission clearly viewed internal connections as providing a path for the transmission of telecommunications services.

"We find that a given service is eligible for support as a component of the institution's internal connections only if that piece of equipment is necessary to transport information..."<sup>7</sup>

### **III. Including Revenue from Inside Wire Maintenance Contracts in the Contribution Base is Not Discriminatory**

#### **A. All Corporate Forms Must Report Revenue from Inside Wire Maintenance**

Petitioners maintain that only carriers that offer inside wire services directly, rather than through an affiliate, are required to report revenues from inside wire maintenance contracts.<sup>8</sup> This is not correct. The Commission's Universal Service Worksheet Instructions clearly require an entity to include its revenues in the contribution base if its "...affiliate provides interstate telecommunications..."<sup>9</sup> Consequently, corporate form does not affect the inclusion of inside wire maintenance revenues in the contribution base for universal service.

#### **B. Providers of Inside Wire Maintenance Unaffiliated with a Provider of Interstate Telecommunications Would Qualify for the De Minimis Exemption**

Finally, Petitioners argue that the Commission discriminates against affiliated providers of same inside wire maintenance services by failing to require unaffiliated providers, such as independent electricians, to also contribute.<sup>10</sup> First, Congress, not the Commission, limited contributions to carriers that provide interstate telecommunications services. The Commission is

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<sup>7</sup>Id., at ¶459.

<sup>8</sup>Joint Petitioners at 6.

<sup>9</sup>FCC Form 456, Universal Service Worksheet, at 4.

<sup>10</sup>Joint Petitioners at 5.

simply following clear Congressional directives. In any case, it is likely that if independent electricians' inside wire maintenance revenues were included the contribution base, they would qualify for the *de minimis* exemption.<sup>11</sup>

#### IV. Conclusion

For the above-mentioned reasons, MCI encourages the Commission to reject the petitions of the Bell companies and retain inside wire revenues as part of the contribution base for federal universal service support.

Respectfully submitted,  
MCI TELECOMMUNICATIONS CORPORATION



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October 2, 1997

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<sup>11</sup>Form 457, Universal Service Worksheet, at 4 states: "A contributor ... will be exempt ...if that contributor's contribution for the next four quarters is expected to be less than \$100. According to various tables in Statistics of Communications Common Carriers, 1995/1996, inter and intrastate revenues are approximately \$200 billion. The Hatfield estimate of funding required by non-rural LECs at a \$30 benchmark to fund the federal contribution is approximately \$500 million, yielding a tax rate of .25%. At this tax rate, independent electricians would have to earn  $100 \div .0025 = \$40,000$  from inside wire maintenance services a year to exceed the *de minimus* exemption.

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on October 2, 1997.

A handwritten signature in cursive script, appearing to read "Lawrence Fenster", written over a horizontal line.

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## CERTIFICATE OF SERVICE

I, Vivian Lee, do hereby certify that a copy of the foregoing **Petition for Reconsideration and Comments** has been sent by United States first class mail, postage prepaid, hand delivery, to the following parties on this 11<sup>th</sup> day of September, 1997.

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A handwritten signature in cursive script that reads "Vivian Lee". The signature is written in black ink and is positioned above a solid horizontal line.

Vivian Lee

**\*\*Hand Delivery**