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GOVERNOR



STATE OF ALASKA
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 31, 1997

BY HAND

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Petitions for Reconsideration and/or Clarification, CC Docket No. 96-61

Dear Mr. Caton:

Transmitted herewith on behalf of the State of Alaska are an original and nine copies of the "Opposition of the State of Alaska to Petitions For Reconsideration" in the above-referenced proceeding.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,

A handwritten signature in cursive script that reads "John W. Katz".

John W. Katz
Director of State/Federal Relations
and Special Counsel

Enclosures

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Before the
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Policy and Rules Concerning the)
Interstate, Interexchange Marketplace)
)
Implementation of Section 254(g) of the)
Communications Act of 1934, as amended)

CC Docket No. 96-61

**OPPOSITION OF THE STATE OF ALASKA
TO PETITIONS FOR RECONSIDERATION**

John W. Katz
Special Counsel to the Governor
Director, State-Federal Relations
Office of the State of Alaska
Suite 336
444 North Capitol Street, N.W.
Washington, D.C. 20001
Telephone: (202) 624-5858
Telecopy: (202) 624-5857

October 31, 1997

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SUMMARY

The Commission should deny the petitions for reconsideration. Section 254(g) of the Communications Act, as amended, requires that rate integration rules apply to all interstate interexchange telecommunications services, regardless of the technology employed. Because CMRS providers offer interstate interexchange telecommunications services, rate integration rules must apply. Arguments that Congress did not intend to have rate integration requirements apply to CMRS are contrary to the plain language of Section 254(g). They are also inconsistent with other Commission rulings which indicate that CMRS providers are subject to requirements in Section 254 of the Communications Act of 1934, as amended, notwithstanding the language of Section 332 of the Act which deregulated CMRS rates.

As the Commission decided in ruling on the PrimeCo motion for stay, there was no procedural defect in the Commission's promulgation of its rate integration rule or the application of that rule to CMRS. It is clear on the face of the statute that rate integration is to apply to all interstate interexchange telecommunications services. The Commission's Notice of Proposed Rulemaking and Report and Order put everyone on notice that the Commission intended to adopt a rule that mirrored the language of the statute.

The Commission may not forbear from applying the rate integration rule to CMRS providers because the statutory requirements for forbearance are not satisfied. In particular, rate integration is necessary to protect consumers in Alaska and other off-shore points of unreasonable discrimination. It is also necessary to protect consumers, and forbearance from that requirement is contrary to the public interest, as determined recently by Congress. The

Commission has previously rejected the argument that the existence of competition is itself sufficient to allow forbearance, and that argument should not be accepted here.

The State of Alaska understands, however, that some clarification of the application of the rate integration rule to CMRS providers may be necessary. The State does not oppose a clarification with respect to the application of rate integration requirements to CMRS providers that are controlled by more than one ultimate parent company and those parent companies are not otherwise commonly controlled. The State also recognizes the need to clarify the interstate CMRS telecommunications to which the rate integration rule would apply.

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

In the Matter of)	
)	
Policy and Rules Concerning the)	
Interstate, Interexchange Marketplace)	CC Docket No. 96-61
)	
Implementation of Section 254(g) of the)	
Communications Act of 1934, as amended)	
)	

**OPPOSITION OF THE STATE OF ALASKA
TO PETITIONS FOR RECONSIDERATION**

The State of Alaska ("Alaska" or "the State") opposes the petitions for reconsideration, clarification and/or forbearance filed by various commercial mobile radio service ("CMRS") providers and trade associations in this docket.¹ Contrary to the arguments of the petitioners, the Commission has acted properly in viewing the rate integration requirements of Section 254(g) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 254(g), as applicable to CMRS, and there was no defect in the rulemaking process in that regard.² Further, the Commission should not forbear from applying rate

¹ Petitions for reconsideration, clarification and/or forbearance were filed by AirTouch Communications, Bell Atlantic Mobile, Inc. ("BAM"), BellSouth Corporation, the Cellular Telecommunications Industry Association ("CTIA"), the Personal Communications Industry Association ("PCIA"), PrimeCo Personal Communications, L.P., and Telephone and Data Systems, Inc. ("TDS").

² As a preliminary matter, the State does not believe that the Commission needs to consider these petitions. These petitions unmistakably rely on facts which the petitioners did not previously present to the Commission. Section 1.429(b) of the Commission's rules permits petitions for reconsideration which rely on facts not previously presented only under

(continued...)

integration requirements to CMRS because the statutory standard for forbearance has not been satisfied. The State does recognize, as it has previously indicated, that the Commission may need to clarify the manner in which rate integration requirements apply to CMRS to avoid unintended consequences that could be contrary to the public interest.³

I. THE RATE INTEGRATION RULE PROPERLY APPLIES TO CMRS

The fundamental contention of the petitioners is that rate integration does not properly apply to CMRS. Yet, the Commission properly relied on the broad language of the statute in concluding to the contrary. Section 254(g) unambiguously states that the Commission is to adopt rules to "require that a provider of interstate interexchange telecommunications services . . . [to] provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State." Although "interexchange telecommunications service" is not a separately defined term, it is equated with the defined term "telephone toll service," because the later term is defined as meaning "telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts

²(...continued)

the following limited circumstances: (1) the facts relate to events which have occurred or circumstances which have changed since the last opportunity to present them to the Commission; (2) the facts were unknown to the petitioner until after its last opportunity to present them to the Commission, and it could not, through the exercise of ordinary diligence have learned of the facts prior to such opportunity; and (3) the Commission determines that consideration of the facts relied on is required in the public interest. The first two circumstances are not present here. The Commission need consider these petitions, therefore, only if it determines that consideration of them is required in the public interest

³ See Comments of the State of Alaska at 5, n.3 (September 29, 1997).

with subscribers for exchange service." 47 U.S.C. § 3(48).⁴ Thus, because CMRS providers offer interstate telecommunications services for which separate toll charges are made, they are providers of interstate interexchange telecommunications services and rate integration rules must apply.

Indeed, the Telecommunications Act of 1996 is otherwise clear on the point that CMRS providers do offer interexchange services. Prior to enactment of that statute, CMRS providers that were affiliated with a Bell Operating Company ("BOC") could not offer interLATA interexchange services. They are permitted to do so now only because Congress enacted Section 271(g)(3) of the Communications Act, 47 U.S.C. § 271(g)(3), which includes interLATA CMRS services in the definition of "incidental interLATA services" which BOC affiliates can offer immediately upon enactment of the 1996 Act. If a CMRS call that otherwise qualifies as an interexchange or interLATA call were not considered an interLATA telecommunications service, this provision would make no sense.⁵

Various petitioners assert that Congress intended only to codify the Commission's rate integration policy as it existed prior to enactment of the Telecommunications Act of 1996 and

⁴ The definition of telephone toll service makes it clear that telephone service can be either landline or wireless because the definition includes "service provided through a system of switches, transmission equipment or other facilities . . . by which a subscriber can originate and terminate a telecommunications service." 47 U.S.C. § 3(47).

⁵ Some petitioners contend that, notwithstanding the language in the statute, CMRS cannot be considered an interexchange service because it is a single, end-to-end service that is transparent to the user. BAM at 11, AirTouch at 11-12, PrimeCo at 12. Of course, the fact that a landline interexchange call is handled by local exchange carriers providing access and an interexchange transport carrier is also transparent to the user. Other petitioners also seem to recognize that CMRS long distance service is a discrete service. CTIA at 10; BellSouth at 22.

that the preexisting rate integration did not apply to CMRS.⁶ This assertion is incorrect. The relevant language from the Conference Committee Report is as follows:

The conferees intend the Commission's rules to require geographic rate averaging and rate integration, and to incorporate the policies contained in the Commission's proceeding entitled "Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the United States Mainland and the Offshore Points of Hawaii, Alaska and Puerto Rico/Virgin Islands (61 FCC 2d 380 (1976)).⁷

Yet, this language does not say that Congress intended only to codify existing policy. Indeed, the structure of the sentence (with the comma after rate integration and the use of the word "and") indicates that Congress intended to require rate integration for all interstate interexchange services and to codify the Commission's existing policies.

Moreover, it is readily apparent that Congress did expand the Commission's existing geographic rate averaging and rate integration policies. For example, Congress required that rate integration apply to the Western Pacific islands (e.g., Guam and the Commonwealth of the Northern Mariana Islands), even though the Commission's preexisting rate integration policy did not apply to interexchange services to those points. Congress also required that geographic rate averaging apply to intrastate interexchange services, an application that goes beyond the Commission's preexisting policies. Therefore, the argument that Congress intended to freeze the Commission's preexisting geographic rate averaging and rate integration policies and require the Commission to do no more than promulgate its preexisting policy is incorrect.

⁶ See, e.g., BAM at 7-8, BellSouth at 5, PrimeCo at 18-19, AirTouch at 6-7.

⁷ H.R. Rep. No. 104-458, 104th Cong., 2d sess. at 132 (1996) (Joint Explanatory Statement of the Committee on Conference).

The petitioners also contend that Congress could not have possibly intended the Commission to apply rate integration requirements to CMRS providers. Of course, the language of the statute itself is clear that all interstate interexchange services are to comply with rate integration requirements, and there is, therefore, no need to seek to discern legislative intent. But it is nonetheless clear that Congress did not intend to exclude CMRS from the otherwise clear language of the statute.

PrimeCo, for example, asserts that Congress's decision to relieve CMRS providers from any requirement to provide equal access indicates an intent not to require CMRS providers to comply with rate integration.⁸ Yet, all the relief from equal access requirements demonstrates is that Congress knows how to exempt CMRS providers from otherwise applicable statutory requirements when it want to do so, and it did not do so with respect to rate integration.

Similarly, BAM suggests that requiring CMRS providers to integrate their interstate interexchange service rates is a form of rate regulation and inconsistent with Section 332 of the Communications Act, as amended, which deregulated CMRS service rates.⁹ Yet, the Commission has already rejected this argument in several ways. First, the Commission in this very docket has reaffirmed its deregulation of landline interexchange service rates, and, in fact, required that they be detariffed.¹⁰ Rate integration unquestionably applies to these

⁸ PrimeCo at 21.

⁹ BAM at 9-11, 19.

¹⁰ Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket No. 96-61, Second Report and Order, 11 FCC Rcd 20730, 20773 at ¶ 77 (1996), stayed pending appeal, MCI Telecommunications Corp. v. FCC, No. 96-1459 (D.C. Cir. Feb. 13, 1997).

deregulated (and indeed, detariffed) services. The argument that rate integration constitutes rate regulation thus flies in the face of the Commission's other actions in this very docket.¹¹ Second, the rate integration provisions are found in the universal service provisions of the Communications Act, as amended. The Commission has already held that other Section 254 requirements apply to CMRS providers. CMRS providers, for example, must contribute to both federal and state universal service support programs, even though States may not regulate CMRS rates.¹² Section 332 does not, therefore, preclude application of Section 254 requirements, including rate integration.

Application of rate integration to CMRS is not only mandated by the language of Section 254(g) and consistent with other provisions of the Communications Act, as amended, and legislative intent, as set forth above, it is also consistent with the Commission's treatment of other types of carriers in this proceeding. The Commission held that the wireless services of American Mobile Satellite Corporation ("AMSC") were interexchange services subject to rate integration. The fact that AMSC's services are not traditional landline services and that exchange boundaries for wireless services are not clearly drawn (or even known to AMSC) did not dissuade the Commission from following the dictates of the statute.¹³

¹¹ Moreover, Congress was aware of the Commission's policies of not regulating the rates of nondominant providers of landline interexchange services when it enacted Section 254(g) yet made Section 254(g) applicable to all providers of interexchange services.

¹² E.g., Petition of Pittencrieff Communications, Inc. for Declaratory Ruling Regarding Preemption of the Texas Public Utility Regulatory Act of 1995, WTB/POL 96-2, FCC 97-343 (released October 2, 1997) at ¶ 3; Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9181-82 at ¶ 791 (1997).

¹³ Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket No. 96-61, Report and Order, 11 FCC Rcd 9564, 9589 at ¶ 54 (1996).

II. APPLICATION OF THE RATE INTEGRATION RULE TO CMRS IS NOT PROCEDURALLY DEFECTIVE

Various petitioners also assert that application of the rate integration rule to CMRS providers is procedurally defective because there was a lack of notice of the possible application of the rule to them. The Commission has already properly rejected this argument in its ruling on the PrimeCo motion for stay.¹⁴

The petitioners' arguments in this regard must fail for several reasons. First, the language of the statute itself is clear that geographic rate averaging and rate integration are applicable to all interexchange services.¹⁵ It should have been apparent to CMRS providers since at least February 1996 that they would be required to comply with these fundamental statutory requirements.¹⁶

Second, the Commission put everyone on notice of its view in this regard in the initial rulemaking notice. In its March 25, 1996 Notice of Proposed Rulemaking, the Commission said that, with respect to geographic rate averaging:

we propose to adopt a rule requiring that the rates charged by all 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

¹⁴ Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket No. 96-61, Order, FCC 97-357 (released October 2, 1997) at 19.

¹⁵ Geographic rate averaging applies to all intrastate and interstate interexchange services; rate integration applies to all interstate interexchange services.

¹⁶ CMRS providers cannot successfully argue that Congress did not view their long distance offerings as the provision of an interexchange service. There is nothing in the Telecommunications Act of 1996 that would support such a view, and there is clear evidence to the contrary. For example, as noted above, see p. 3 supra, CMRS providers that are affiliated with a Bell Operating Company are permitted to provide interLATA interexchange services as a result of Section 271(g)(3), which defines "incidental interLATA services" as including the interLATA provision of CMRS.

subscribers in urban areas. As established by the 1996 Act, this requirement would apply to all providers of interexchange telecommunications services.¹⁷

The Commission also indicated its intention to apply rate integration requirements to all interstate interexchange services. It said:

As required by the 1996 Act . . . we propose to adopt a rule requiring that "a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State."¹⁸

Third, these positions were confirmed in the Report and Order adopting the geographic rate averaging and rate integration rules. The Commission then stated:

As required under the 1996 Act, our rule will apply to all providers of interexchange telecommunications services and to all interexchange "telecommunications services," as defined in the Act.

This [rate integration] rule will apply to all domestic interstate interexchange telecommunications services as defined in the 1996 Act, and all providers of such services."¹⁹

Moreover, as set forth above, the Commission specifically rejected the notion that rate integration applied only to traditional wireline providers of interexchange services when it

¹⁷ Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket No. 96-61, Notice of Proposed Rulemaking, 11 FCC Rcd 7141, 7176-77 at ¶ 67 (1996).

¹⁸ Id. 7181 at ¶ 76. BAM contends that the Notice of Proposed Rulemaking was defective because it said that its purpose was to reduce existing regulations. BAM at 4. BAM ignores the clear statement as early as Paragraph 5 of the Notice of Proposed Rulemaking that, "as required by the 1996 Act, we propose rules to implement the 1996 Act's provisions relating to geographic rate averaging and rate integration." Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket No. 96-61, Notice of Proposed Rulemaking, 11 FCC Rcd 7141, 7145 at ¶ 5.

¹⁹ Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket No. 96-61, Report and Order, 11 FCC Rcd 9564, 9569, 9588 at ¶¶ 9, 52 (1996).

rejected AMSC's suggestion that it not be subject to rate integration. By adopting exactly the rules that it proposed, the Commission satisfied the requirements of notice and comment rulemaking.

For all of these reasons, the application of Section 254(g) requirements to CMRS providers should not have been a surprise. Indeed, GTE's Petition for Reconsideration and Clarification, filed September 16, 1996, raised the issue of how affiliation rules would apply to CMRS providers.²⁰ GTE seemed to understand that its CMRS operations would be subject to geographic rate averaging and rate integration requirements (although it challenged the Commission's determination that all GTE affiliates should be required to integrate their rates together). If CMRS providers chose to pretend that Section 254(g) and the Commission's implementing rulemaking did not exist, it is not the Commission's fault.

Thus, because the language of the Communications Act, as amended, is clear, and because the Commission's Notice of Proposed Rulemaking and Report and Order were equally clear, that geographic rate averaging and rate integration were to apply to all interexchange services, the State disagrees that there are procedural deficiencies in the application of these rules to CMRS providers.

III. THE COMMISSION SHOULD NOT FORBEAR FROM APPLYING RATE INTEGRATION TO CMRS PROVIDERS

The Commission should not forbear from applying rate integration requirements to CMRS providers because the statutory requirements for forbearance are not satisfied.

²⁰ See pages 6-8 of that petition.

As a preliminary matter, the Commission has rejected all prior requests to forbear from rate integration.²¹ Although the Conferees for the 1996 Act stated that "the Commission, where appropriate, could continue to authorize limited exceptions to the general geographic rate averaging policy using the authority provided by the new section 10 of the Communications Act" (the forbearance provisions), no such instruction is given to permit forbearance from rate integration.²²

Contrary to the claims of the petitioners, the requirements for forbearance are not satisfied here. The first requirement is that enforcement of the requirement at issue "is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory."²³ Rate integration is a policy (and now statutory requirement) that is founded on the nondiscrimination provisions of the Communications Act. Rate integration is necessary precisely because, without it, discriminatory charges and practices with respect to telecommunications services to and from Alaska, Hawaii and certain other areas are indeed possible.²⁴ Indeed, BAM notes that,

²¹ See, e.g., Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket No. 96-61, First Memorandum Opinion and Order on Reconsideration, FCC 97-269 (released July 30, 1997) at ¶ 24; AT&T Request for Waiver of Section 64.1701 of the Commission's Rules, CCB/CPD No. 96-26, DA 97-129 (released January 17, 1997).

²² H.R. Rep. No. 104-458, 104th Cong., 2d sess. at 132 (1996) (Joint Explanatory Statement of the Committee on Conference).

²³ 47 U.S.C. § 160(a)(1).

²⁴ Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands, CC Docket No. 83-1376, Supplemental Order Inviting Comments, 4 FCC Red (continued...)

although the Commission has previously forbore from applying various statutory requirements to CMRS providers, it has not forbore from applying the nondiscrimination provisions of Section 202(a).²³ There is, therefore, no reason or precedent for forbearing from rate integration.

Because the first prong of the preemption test is not satisfied, there is no need for the Commission to analyze the other requirements. Yet, it is clear that they are not satisfied either. The second requirement is that "enforcement of such regulation or requirement is not necessary for the protection of consumers."²⁴ Yet, enforcement of rate integration requirements is necessary to protect consumers in Alaska and other off-shore locations from having to pay more for interexchange services than other Americans.²⁵

²⁴(...continued)

395, 398 at ¶ 25 (1989) ("[c]ontinued integration of interstate MTS and WATS rates is necessary to ensure that all Alaska residents are able to participate fully in the social, economic, and political life of our nation. . . . [A] rate structure which averages interstate toll rates for states other than Alaska, while imposing deaveraged rates for service to and from Alaska could raise questions concerning an unjust and unreasonable discrimination pursuant to Section 202 of the [Communications] Act."); MTS and WATS Market Structure, CC Docket No. 78-72, Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking, 81 F.C.C. 2d 177, 192 at ¶ 63 (1980) ("[A] rate structure which averages rates in 48 states and de-averages rates in 2 states may subject the residents of those two states to an unreasonable prejudice or disadvantage within the meaning of Section 202(a). . . . We have decided that a rate structure which uses different ratemaking methods to determine the rates which different users pay for comparable services is inconsistent with the national policy expressed in Section 202(a).").

²³ BAM at 19.

²⁴ 47 U.S.C. § 160(a)(2).

²⁵ See Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket No. 96-61, First Memorandum Opinion and Order on Reconsideration, FCC 97-269 (released July 30, 1997) at ¶ 24.

The final requirement for preemption is that "forbearance from applying such provision or regulation is consistent with the public interest."²⁶ Congress has clearly spoken on the issue of whether rate integration is in the public interest. It codified geographic rate averaging and rate integration, and required the Commission to adopt implementing rules within a very short period of time (six months), precisely because it felt that these were fundamentally important national telecommunications policies, necessary to provide consumers in rural and high cost areas access to interexchange services at affordable and nondiscriminatory rates. These policies are thus designed to provide all consumers, wherever they are located, with the lowest possible prices for interexchange services. The public interest would not be served by a Commission ruling that is contrary to the plain language of Section 254(g).

The petitioners raise various arguments in support of their requests for forbearance, but none has merit. First, they assert that the existence of competition in CMRS is sufficient to negate the need for rate integration.²⁷ Yet, the Commission has also found that landline interexchange services are competitive,²⁸ and Congress and the Commission have nonetheless concluded that rate integration requirements must apply to those services. BAM recognizes

²⁶ 47 U.S.C. § 160(a)(3).

²⁷ E.g., PrimeCo at 22-24.

²⁸ Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket No. 96-61, Notice of Proposed Rulemaking, 11 FCC Rcd 7141, 7144 at ¶ 2 ("the interstate, domestic, interexchange market has evolved from a market of fledgling competitors overshadowed by a single, dominant service provider to a market characterized by substantial competition").

that competition in wireless services is not uniform throughout the Nation.²⁹ That is precisely why rate integration is needed. Congress has decided that all Americans, regardless of where they are located, should benefit from competition in the most competitive areas with respect to interexchange services.

Second, the petitioners assert that forbearance is in the public interest because competition will be stifled if rate integration is applied to CMRS.³⁰ Yet, there has been no showing that competition will be stifled. There are numerous other parameters on which CMRS providers compete, including basic monthly rates, airtime charges, vertical services (such as voice mail), scope of local calling area, and various package plans. Rate integration may actually be procompetitive because it will focus competition in a manner that may facilitate customers' comparison of competitors' service plans.

Third, some petitioners argue that application of rate integration to CMRS would serve no purpose because differing airtime rates would mean that customers in different states would still face different charges for interstate long distance calls.³¹ The fact that Congress and the Commission have taken some steps to reduce discrimination and differential call rates, but have not taken other steps, does not make it unreasonable or otherwise improper to enforce the requirements that have been imposed.

Fourth, PrimeCo has suggested that rate integration is not necessary because the Commission could impose a less restrictive alternative. PrimeCo suggests that the

²⁹ BAM at 13.

³⁰ E.g., PCIA at 6, BAM at 14.

³¹ E.g., AirTouch at 12-13, CTIA at 7, PrimeCo at 12-13.

Commission could simply prohibit CMRS providers from establishing a special rate category for calls to non-contiguous points.³² As a preliminary matter, the existence of a less restrictive alternative is not the test for forbearance set forth in the statute. In any event, however, the alternative PrimeCo suggests would not be adequate. PrimeCo's suggestion plainly would not address the problem of calls originating in the non-contiguous areas. Although PrimeCo may not originate calls in these locations, other CMRS providers operating in the continental U.S. clearly do, and this suggestion would not be sufficient with respect to those providers.

IV. SOME CLARIFICATIONS MAY BE APPROPRIATE

The State recognizes that there may need to be some clarification of how the rate integration rule is to apply to CMRS providers. These clarifications should be consistent with the Commission's ruling on the PrimeCo motion for stay. The State has been discussing these issues with members of the CMRS industry in an effort to reach a common understanding of what clarifications might be required, and will continue to do so.

As noted in its comments on that motion, the State does not object to a clarification with respect to the application of the rate integration requirements to CMRS providers that are controlled by more than one ultimate parent company and those parent companies are not otherwise commonly controlled.³³ But all CMRS operations that are controlled by the same single entity should be required to integrate their interstate interexchange service rates. The State thus disagrees with the suggestion by BellSouth that commonly controlled PCS and

³² PrimeCo at 14.

³³ Comments of the State of Alaska at 5, n.3 (September 29, 1997).

cellular operations should not be required to integrate their interstate interexchange rates.³⁴

The Commission generally does not distinguish PCS from cellular operators in its operational rules and there is no reason why new PCS entrants cannot compete successfully against cellular operators by varying the terms of service and rates or other parameters of the wireless service package. The State also disagrees with the suggestion of AirTouch that rate integration requirements should apply only to entities that are identically owned.³⁵ Rate integration should apply to all entities that are controlled by a single and common parent entity.

The State recognizes that there may also need to be some clarification with respect to the calls that are subject to the rate integration requirement. Interstate CMRS calls for which there is not a toll charge may not properly be subject to rate integration requirements because they are not considered interexchange calls. Such an interpretation would appear to be consistent with the Commission's partial grant of the PrimeCo motion for stay. The State does not agree with AirTouch, however, that rate integration requirements should apply only

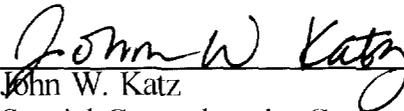
³⁴ See BellSouth at 24.

³⁵ AirTouch at 16.

to the extent that a CMRS provider is reselling another telecommunications providers' long distance service.³⁶

Respectfully submitted,

THE STATE OF ALASKA



John W. Katz
Special Counsel to the Governor
Director, State-Federal Relations
Office of the State of Alaska
Suite 336
444 North Capitol Street, N.W.
Washington, D.C. 20001
Telephone: (202) 624-5858
Telecopy: (202) 624-5857

October 31, 1997

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³⁶ See AirTouch at 17.

CERTIFICATE OF SERVICE

I, Marideth J. Sandler, hereby certify that on this 31st day of October 1997, copies of the foregoing Opposition of the State of Alaska to Petitions For Reconsideration in CC Docket No. 96-61 were served on the following by hand or first-class mail to:

Dan Phythyon
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, DC 20554

William Bailey
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, DC 20554

Rosalind K. Allen
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 7002
Washington, DC 20554

John B. Muleta
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W., Room 6008
Washington, DC 20554

Regina M. Keeney
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 712
Washington, DC 20554

William L. Roughton, Jr.
Associate General Counsel
PrimeCo Personal Communications, L.P.
601 13th Street, N.W.
Suite 320 South
Washington, DC 20005

A. Richard Metzger, Jr.
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, DC 20554

William B. Barfield
Jim O. Llewellyn
BellSouth Corporation
1155 Peachtree Street, NE
Suite 1800
Atlanta, GA 30309-2641

James D. Schlichting
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, DC 20554

C. Claiborne Barksdale
BellSouth Corporation
1100 Peachtree Street, NE
Suite 910
Atlanta, GA 30309-4599

Patrick J. Donovan
Common Carrier Bureau
Federal Communications Commission
2033 M Street, N.W., Room 500
Washington, DC 20554

David G. Frolio
BellSouth Corporation
1133 21st Street, N.W.
Washington, DC 20036

Michael F. Altschul
Vice President, General Counsel
Cellular Telecommunications
Industry Association
1250 Connecticut Avenue, N.W.
Washington, DC 20036

Kathleen Q. Abernathy
David A. Gross
AirTouch Communications
1818 N Street, N.W.
Suite 800
Washington, DC 20036

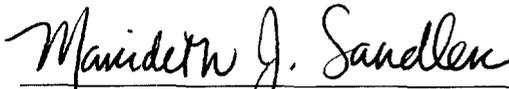
Charles D. Cosson
AirTouch Communications
One California Street, 29th Fl.
San Francisco, CA 94111

George Y. Wheeler, Esq.
Koteen & Naftalin, L.L.P.
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, DC 20036

Mark J. Golden
Personal Communications
Industry Association
500 Montgomery Street
Suite 700
Alexandria, VA 22314-1561

S. Mark Tuller
Vice President - Legal and External
Affairs, General Counsel and Secretary
Bell Atlantic Mobile, Inc.
180 Washington Valley Road
Bedminster, NJ 07921

International Transcription Service
1231 20th Street, N.W.
Room 112
Washington, DC 20036


Mandeth J. Sandler