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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYFCC
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Washington, DC 20554

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Att.: Ms. Maggie Roman Salas
SecretaryRe: Petition for Reconsideration/Clarification of Petition
Docket #96-61 FCC 97-293

Dear Ms. Salas:

The FCC states two reasons for eliminating the public disclosure requirement:

- A. To decrease regulatory burdens on nondominant interexchange carriers, and
- B. To deter tacit price coordination, i.e., to protect the customer from rate increases during the contract period.

As a telecommunications consultant with fifteen years experience I would like to explain why I feel, the public disclosure requirement should be retained, specifically with regard to individually negotiated service arrangements for small to medium businesses. In response to the points above:

A. I appreciate the fact that the FCC aims to impose the least possible government intervention on free enterprise. In this situation competition among carriers ought to keep rates uniform for similar users. No carrier would charge unfair rates for fear of losing business to its competitors. If a carrier would, the customer has recourse to appeal to the FCC.

Nevertheless, I have seen with my own eyes that interexchange carriers do indeed give highly discrepant rates to similar users, and the user does not know he has a complaint.

The assumption that competition will naturally regulate individual service contracts presupposes that the customer has knowledge of competitive rates and contracts. Nothing could be farther from the truth. It should be understood that a service contract is an intricately complex arrangement, involving a multiplicity of eligibility criteria, rates and services. Aside from the super-big companies, which have the resources to research telecommunications, the consumer is in the dark.

It is surprising how many residential consumers and even small to medium sized businesses are still paying basic rates! They need to be educated to know they are entitled to receive from the telephone companies competitive pricing that is available to similar users.

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In the interest of maximizing their profits the interexchange carriers do prey on the ignorance of the average businessperson. I have done consulting for countless businesspeople who believed the telephone company salesman's assurances that they were getting the lowest prices available. In fact, almost every one of them can benefit by an existing custom tariff given to another customer with a similar calling/usage pattern.

It is unlikely that regular businesspeople can find out what is going on in the marketplace without public contract tariffs being accessible either to them personally or to their hired consultants. Neither they nor their consultants will have access to private contracts if the public disclosure requirement is abolished.

An additional advantage to public access to contract tariffs - if during the contract period the customer learns that his carrier has given reduced rates to a similar customer, he may demand and receive the same rates. If tariffs will not be issued publicly, how will the customer be informed when he is entitled to lower rates?

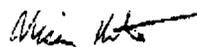
Unfortunately, the only ones who will not suffer from eliminating the public disclosure requirement will be the largest businesses, which already enjoy the best services, the lowest prices, and the most features. I would like to bring to your attention Footnote #206 of the petition FCC 97-293, found in Section 68, page 38 (Enclosure 1). In light of the large companies' strength to deal with the competitive telecommunications market let me suggest that the FCC dispense with the public disclosure requirement for contracts for large businesses, such as AT&T's Tariff 12, but you should—please!—keep the public disclosure requirement with regard to individual contract tariffs (such as Tariff # 8532 Enclosure 2) for small to medium users.

B. Paradoxically, in the case of tacit price coordination the nondominant interexchange carriers have consistently given controlled rate increases. Over the past twelve years I have observed that AT&T raises their prices only once or twice a year. The rate increases generally do not exceed 2%-4% on the bulk of their most popular and used services. This can be justified as inflation in cost of living and cost of services. (See Enclosure 3, courtesy of Dr. Bob's Long Distance For Less.)

As an alternative to detariffing, to ensure controlled rate increases the FCC should rather compel the carrier to write a provision into the tariff to protect the customer. (See Enclosure 2: Page 10 of Contract Tariff # 8532, in which the carrier offers credit to the customer if rates rise more than 3% during the contract period.)

I hope I have illustrated through my arguments why a significant segment of telecommunications consumer need the continued protection of the public disclosure requirement, and I hope my suggestions will be considered. Please, do not institute Petition 97-293.

Sincerely yours,



Nissan Rosenthal
President, Econobill Corp.
NR/rm

Enclosures
14 additional copies



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ENCLOSURE #1

Federal Communications Commission

FCC 97-293

more narrowly tailor our information requirements. We therefore grant Ad Hoc Users Committee's petition and eliminate the public disclosure requirement for individually-negotiated service arrangements.²⁰⁶ Ad Hoc Users Committee correctly states that disclosure of the rates, terms, and conditions of individually-negotiated service arrangements cannot be justified on the basis of the need to enforce section 254(g), because the Commission decided to forbear from applying the geographic rate averaging and rate integration requirements to such arrangements.²⁰⁷ The Commission, however, requires carriers to ensure that individually-negotiated service offerings are available to similarly-situated customers, regardless of their geographic location.²⁰⁸ There are means to ensure that nondominant interexchange carriers make individually-negotiated service arrangements available to all similarly-situated customers without a public disclosure requirement. Market forces generally will ensure that nondominant interexchange carriers that lack market power do not charge rates, or impose terms and conditions, for interstate, domestic, interexchange services that are unjustly or unreasonably discriminatory.²⁰⁹ Specifically, if a nondominant interexchange carrier could profit from selling an interstate, domestic, interexchange service at one price to one customer and attempted to sell the same service at an unjustly or unreasonably discriminatory price to a similarly-situated customer, that customer would purchase services from other facilities-based nondominant interexchange carriers that could profit from selling the same services to that customer at the lower market price. Moreover, we can remedy any carrier conduct that violates the requirement that carriers make individually-negotiated service arrangements available to all similarly-situated customers through the section 208 complaint process²¹⁰ and the requirement adopted in the *Second Report and Order* that nondominant interexchange carriers maintain price and service information on all of their interstate, domestic, interexchange services that they must make available to the Commission upon request.²¹¹ Thus, eliminating public disclosure for individually-negotiated service arrangements will not

²⁰⁶ Individually-negotiated service arrangements, as opposed to mass market services, are customer-specific arrangements, such as contract tariffs, AT&T's Tariff 12 options, MCI's special customer arrangements, and Sprint's custom network service arrangements.

²⁰⁷ *Geographic Rate Averaging Order*, 11 FCC Rcd at 9577.

²⁰⁸ *Id.*

²⁰⁹ *Second Report and Order* at 20742-43, para. 21.

²¹⁰ A customer can file a section 208 complaint and allege that a carrier has unreasonably discriminated against it in the provision of either contract or mass market services. The customer complainant, as always, under section 208, bears the initial burden of establishing that: (1) the complainant sought substantially the same service arrangement under the same terms and conditions that were made available to another customer; and (2) the carrier refused to make that service available to the complainant on terms similar to those of another customer's service arrangement. If a complainant establishes this, the burden shifts to the carrier which must demonstrate why the discrimination is reasonable. See *Competition in the Interstate Interexchange Marketplace*, 6 FCC Rcd 5880, 5903 (1991).

²¹¹ *Id.* at 20777-78, para. 87.

ENCLOSURE # 2

AT&T COMMUNICATIONS **CONTRACT TARIFF NO. 8532**
 Adm. Rates and Tariffs Original Page 10
 Bridgewater, NJ 08807
 Issued: November 21, 1997 Effective: November 22, 1997

**** All material on this page is new. ****

7. Rates - The Usage Rates in this section are in lieu of the Domestic Usage Rates specified in AT&T Tariff F.C.C. No. 1, as amended from time to time.

A. Domestic Services

1. The following Usage Rates apply to all domestic interstate Associated Optional AT&T 800 Services calls under this Contract Tariff which uses switched access :

<u>PEAK</u>		<u>OFF-PEAK</u>	
<u>Initial</u>	<u>Each Add'l</u>	<u>Initial</u>	<u>Each Add'l</u>
<u>30 seconds</u>	<u>6 Seconds</u>	<u>30 seconds</u>	<u>6 Seconds</u>
<u>or Fraction</u>	<u>or Fraction</u>	<u>or Fraction</u>	<u>or Fraction</u>
\$0.1235	\$0.0247	\$0.1055	\$0.0211

2. The following Usage Rates apply to all domestic interstate AT&T UNIPLAN Basic Service calls under this Contract Tariff which uses switched access:

<u>PEAK</u>		<u>OFF-PEAK</u>	
<u>Initial</u>	<u>Each Add'l</u>	<u>Initial</u>	<u>Each Add'l</u>
<u>30 seconds</u>	<u>6 Seconds</u>	<u>30 seconds</u>	<u>6 Seconds</u>
<u>or Fraction</u>	<u>or Fraction</u>	<u>or Fraction</u>	<u>or Fraction</u>
\$0.1140	\$0.0228	\$0.0975	\$0.0195

3. The following Usage Rates apply to all domestic interstate Associated Optional AT&T 800 Services calls under this Contract Tariff which uses dedicated access:

<u>PEAK</u>		<u>OFF-PEAK</u>	
<u>Initial</u>	<u>Each Add'l</u>	<u>Initial</u>	<u>Each Add'l</u>
<u>30 seconds</u>	<u>6 Seconds</u>	<u>30 seconds</u>	<u>6 Seconds</u>
<u>or Fraction</u>	<u>or Fraction</u>	<u>or Fraction</u>	<u>or Fraction</u>
\$0.0780	\$0.0156	\$0.0725	\$0.0145

4. The following Usage Rates apply to all domestic interstate AT&T UNIPLAN Basic Service calls under this Contract Tariff which uses dedicated access:

<u>PEAK</u>		<u>OFF-PEAK</u>	
<u>Initial</u>	<u>Each Add'l</u>	<u>Initial</u>	<u>Each Add'l</u>
<u>30 seconds</u>	<u>6 Seconds</u>	<u>30 seconds</u>	<u>6 Seconds</u>
<u>or Fraction</u>	<u>or Fraction</u>	<u>or Fraction</u>	<u>or Fraction</u>
\$0.0740	\$0.0148	\$0.0685	\$0.0137

If AT&T increases or decreases the AT&T UNIPLAN Basic Service and Associated Optional AT&T 800 Services Usage Rates in AT&T Tariff F.C.C. No. 1 for the Peak or Off-Peak Rate Period, the Usage Rates for all Rate Periods listed above, will increase or decrease by the same percentage as the rate in AT&T Tariff F.C.C. No. 1, not to exceed 3% in any one year. If the above rates are increased by more than 3% during any one year, the Customer will receive the credit specified in Section 6.C.1.(f), preceding. AT&T will automatically make rate adjustments under this provision as necessary.

ENCLOSURE #3

New table
for December
1997.
Not yet
published.

Changes in M&T BASE Day Rates

Per Minute Rates for 600-Mile, 5-Minute Interstate Day Call

Service	1984	1986	1990	1997	% Rise '90 to '97	
					Annual	Total
MTS						
Bus "1+," Card/Opert	47.8¢	36.5¢	23.9¢	36.35¢	6.17%	52.1%
‡ Bus/Res Card (1997 only)				35.0	5.60	46.4
† Bus/Res Operator (1997 only)				40.4	7.80	69.0
Residential "1+" - Basic Sch X (1997 only)				28.0	2.29	17.2
Schedule Y and Z (1997 only)				30.0	3.30	25.5
Pro WATS (SelectValue/Plan Q)†	32.8	23.9	39.0	7.25	63.2	
Megacom						
Banded WATS	37.5	28.0	15.8	23.6	5.90	49.4
SDN - Schedule A			19.0	30.9	7.19	62.6
SDN - Schedule B			15.8	23.4	5.77	48.1
Readyline 800			23.5	38.05	7.13	61.9
Megacom 800			16.6	27.02	7.21	62.8

1997 data as of 12/1/97. Annual increase is average when compounded annually. Base rates do not necessarily show total cost. Total cost comparisons require adjustments for billing increments, time of day, call patterns, volume/other discounts, promos, access costs, and other factors. Other carriers' rates have followed similar paths. † Pro WATS merged into SelectValue/Plan Q 2/1/95; starting 1996 billed 30/1 rather than 30/6.

Data: Maritz Dynamics, Inc.