ORIGINAL

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

DEC 2 9 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	
Access Reform Tariff Filing Regarding Virgin Islands Telephone Corp.	Tariff Transmittal No.36

97-249
97-250

REPLY OF VIRGIN ISLANDS TELEPHONE CORP. TO PETITION OF AT&T

This is in reply to the *Petition of AT&T Corp. on Rate-of-Return LEC Tariff Filings*, filed on December 23, 1997 ("AT&T Petition"). Although AT&T's pleading raises a number of issues applicable to different rate of return LECs, the Virgin Islands Telephone Corp. ("Vitelco") is barely mentioned. The one oblique reference to Vitelco is so vague that it cannot fathom what AT&T's thinks is wrong with its tariff revisions. Significantly, AT&T has failed to even allege that Vitelco has violated the Communications Act or a Commission rule or order. Therefore, the Commission should summarily reject AT&T's request for suspension and investigation of its tariff as woefully deficient.[1]

AT&T makes a general allegation that LECs identified in its Exhibit C have failed to provide sufficient cost support material.[2] AT&T makes no attempt to explain what specifically is lacking in Vitelco's cost support material. Rather, the only clue that AT&T gives that aids the

---

[1] In fact, AT&T's pleading is so lacking with respect to Vitelco's tariff revisions that the Commission should strongly consider imposing sanctions against AT&T for abusing the petition process.

[2] For some reason, Vitelco is also listed on the unlettered exhibit attached to AT&T's Petition, entitled "Cited LECs that Filed Tariffs Only." Since AT&T admits in the text of its Petition at page 5 that Vitelco filed cost support material, we are assuming that this reference is in error, or is otherwise unrelated to the allegations contained in the Petition.

Commission in unraveling this mysterious statement is footnote 10. There AT&T states generally as to all Appendix C LECs that it needs more information "at the subaccount level" to discern, "for example" whether (1) the carrier appropriately removed Local Switching Support from the Local Switching revenue requirement, (2) COE maintenance has been properly reallocated, or (3) "other TIC charges" have been removed to other rate elements.[3]

The FCC should refuse to suspend and investigate Vitelco's tariff filing for four reasons. First, it is quite significant that nowhere does AT&T even make an assertion that Vitelco's tariff revisions fail to comply with the Commission's rules or orders or the Communications Act. As such, AT&T's petition must be rejected for failure to make even a prima facie allegation that Vitelco's tariff is unlawful.[4] Second, AT&T's statement is so indefinite as to the specific issue it has with Vitelco's tariff that it cannot properly form the basis of suspending or investigating a tariff. Third, it is well-settled that failure to provide sufficient cost support material is not an adequate ground, by itself, to suspend a tariff because cost support material is solely for the Commission's benefit and not for a third party.

Fourth, Vitelco has provided more than sufficient cost support material to evaluate whether Vitelco has complied with the Commission's *Access Reform Order*[5] and the *Order on Reconsideration*[6] and to determine whether Vitelco has complied with the two issues specifically

---

[3] AT&T Petition at 5 n.10.

[4] 47 C.F.R. § 1.773 (1996). *See MCI Telecommunications Corp.*, 7 FCC Rcd 1706 (1992).

[5] Access Charge Reform, CC Docket No. 96-262, FCC 97-158 (May 16, 1997) [hereinafter "*Access Reform Order*"].

[6] Access Charge Reform, Order on Reconsideration, 12 FCC Rcd 10119 (1997).

identified by AT&T in footnote 10 that apply to Vitelco.[7] Frankly, Vitelco is confused as to why AT&T has even included it on the long list of LECs with respect to this issue. Perhaps, Vitelco was included in error. Vitelco did provide detailed documentation and explanations about its tariff revisions, including complete Part 69 studies. Vitelco detailed how it reallocated COE maintenance expenses, with the supporting documentation at the subaccount level, in Exhibit 2, page 1. In addition, the manner in which Vitelco reallocated TIC charges to other rate elements is described in Vitelco's Description and Justification, Exhibit 1, pages 1 through 5, and Exhibit 2.[8]

For all these reasons, the Commission should summarily reject AT&T's petition as it applies to Vitelco and refuse to suspend or investigate Vitelco's tariff revisions.

Respectfully submitted,

Gregory J. Vogt
Davida Grant
WILEY, REIN & FIELDING
1776 K Street, NW
Washington, DC 20006

Counsel for Virgin Islands Telephone Corp.

December 29, 1997

---

[7] Since Vitelco has more than 50,000 access lines, it is ineligible for Local Switching Support. In addition, although AT&T faults Appendix C carriers for failing to provide Part 36 studies, such a study is unnecessary since Vitelco has made no change in its Part 36 allocations. Indeed, AT&T should recall that the FCC specifically refused to make Part 36 reallocations in the *Access Reform Order* since it had not referred these issues to a Federal-State Joint Board. *Access Reform Order*, ¶ 223.

[8] If AT&T wishes to compare Vitelco's Part 69 projected data with historical data, it can simply review Vitelco's historical data provided with its annual access tariff filing for 1997.

CERTIFICATE OF SERVICE

I, Jacquelyn Martin, certify that I have this 29th day of December, 1997 caused a copy of the foregoing Reply of Virgin Islands Telephone Corp. to Petition of AT&T to be hand-delivered to the following:

Judy Nitsche
Tariff & Pricing Analysis Branch
Federal Communications Commission
2033 M Street, N.W., Room 518
Washington, D.C. 20554

Chief, Legal Branch
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Copy Contractor
Federal Communications Commission
1919 M Street, N.W., Room 246
Washington, D.C. 20554

Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Rm. 500
Washington, D.C. 20554

Chief, Tariff Division
Federal Communications Commission
2033 M. Street, N.W., Rm. 518
Washington, D.C. 20554

A copy of the Reply of Virgin Islands Telephone Corp. to Petition of AT&T was delivered via facsimile to the following:

Yolanda Brooks
AT&T Corp.
Tel: (908) 771-3401
Fax: (908) 953-6788

Jacquelyn Martin

Jacquelyn Martin