DOCKET FILE COPY ORIGINAL

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

RECEIVED

MAY 26 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board	)	
on Universal Service	)	
	)	
Forward-Looking Mechanism for	)	CC Docket No. 97-160
High-Cost Support for Non-Rural LECs	)	DA 98-848

COMMENTS OF THE AD HOC TELECOMMUNICATIONS USERS COMMITTEE

The Ad Hoc Telecommunications Users Committee (hereinafter the "Ad Hoc Committee" or "Ad Hoc") submits its Comments in response to the May 4, 1998 *Public Notice* in this proceeding, DA 98-848.

INTRODUCTION

In the *Public Notice*, the Commission seeks additional comment regarding the inputs that should be included in the revenue-based benchmark used to determine universal service funding levels.[1] In particular, the Commission has raised the following issues:

a) the amount of access revenues that should be included in the benchmark;

b) the amount of intraLATA toll that should be included in the benchmark;

c) whether there should be some accounting for the costs of access and/or toll that are not presently included in the results generated by the benchmark cost models (either through a reduction in the revenue benchmark or an increase in the estimated forward-looking incremental cost); and

[1] *Public Notice* at 8-9.

No. of Copies rec'd 0+5
List A B C D E

d) the services that can be provided over the network that the universal service mechanism is designed to support, and the revenues related to those services.

DISCUSSION

The Ad Hoc Committee has long advocated the use of a revenue benchmark inclusive of revenues from all local, discretionary, and access services.[2] In determining the amount of support needed for universal service, whether for a federal or state support mechanism, it is critical to recognize that cost is only one side of the equation. As the Joint Board recognized in its Recommended Decision,[3] to make the equation complete, the Commission must also consider the total revenues available to support universal service. When a local exchange carrier ("LEC"), be it an incumbent ("ILEC") or a new entrant ("CLEC"), provides a customer with a dial-tone line, it taps into a stream of revenues from several interrelated sources. Included within this revenue stream, in addition to revenues from the dial-tone line and other universal service elements, are:

1. for both ILECs and CLECs, revenues from services linked to the provision of the dial-tone line and frequently ordered by customers in connection with residential exchange service, thus following the customer and remaining available to support affordable universal service provided by the customer's chosen provider, *e.g.*, so-called "CLASS" features, local usage, and access revenues;

2. for ILECs, revenues from services deriving from the ILECs' historic franchise monopoly, which are not affected by customers' decision to take service from a competitive provider, primarily yellow pages revenues.

I. REVENUES FROM OTHER SERVICES LINKED TO RESIDENTIAL ACCESS LINES NEED TO BE INCLUDED IN THE REVENUE BENCHMARK.

A multitude of services are directly tied to the provision of the dial-tone line and thus follow a customer when it changes providers. Subscribers do not buy just one rate element (*e.g.*, the voice grade access line); they also buy such services as touch tone, custom calling features, local usage (on a flat or measured basis), extended area calling services, directory assistance, and the non-traffic sensitive ("NTS") contributory elements of access charges (*i.e.*, the interstate

---

[2] *See* Ad Hoc Comments in CC Dkt. No. 96-45 (filed April 12, 1996) at 13 - 20 *and* Ad Hoc Comments in CC Dkt. No. 96-45 (filed December 19, 1996).

[3] *Federal-State Joint Board on Universal Service*, CC Dkt. No. 96-45, Recommended Decision, 12 FCC Rcd 87 (1996), at ¶¶ 310-312.

subscriber line charge ("SLC") and primary interexchange carrier charge ("PICC"), and the federal and state carrier common line charges ("CCLCs") and interconnection charges ("ICs"))[4]. In so doing, subscribers generate a revenue stream for the ILEC or CLEC that provides these services along with universal service. Although rate design and marketing decisions determine which elements of a residential customer's total telecommunications purchase are priced below, at, or substantially above cost, the customer purchases a totality of services, and pays a total rate; therefore, when assessing whether support is required, the Commission must account for the revenues received from the residential customer's entire purchase of services linked to the provision of the dial-tone line.

As discussed in the Ad Hoc Committee's earlier comments in this proceeding, the Joint Board correctly concluded that the appropriate revenue benchmark would include revenues from all local, access, and discretionary services, where these services are tied to the purchase of supported services.[5] Such services currently produce an important revenue stream for ILECs, which will also be available to CLECs. Ad Hoc has also explained the rationale for including revenues for yellow pages advertising within the revenue benchmark applicable to incumbent LECs.[6]

Exclusion of discretionary and access service revenues from the revenue benchmark would result in an unnecessarily large universal service fund. In addition, the ILECs would be the primary beneficiaries of the associated revenue windfall, since, at least in the near term, they will be the major recipients of universal service funding. This will have severe negative consequences for the development of effective competition in the ILECs' local exchange and exchange access markets. Because revenues from discretionary and access services follow the customer when the customer changes providers, new entrants will have opportunities similar to the ILECs to obtain

---

4 These charges have been known variously as the "Transport Interconnection Charge" ("TIC"), the "Residual Interconnection Charge" ("RIC"), and the "Interconnection Charge" ("IC").

5 Ad Hoc Comments in CC Docket No. 96-45 (filed April 12, 1996) at 11.

6 *Id.* at 12-14.

these sources of revenues from their customers; therefore, the overarching goal of competitive neutrality will not be compromised by inclusion of discretionary and access services in the revenue benchmark. .[7]

To the extent any implicit subsidies remain in some of the discretionary and access service prices the Ad Hoc Committee proposes to include in the revenue benchmark, these can be eliminated over time; but rate rebalancing must occur for customers to enjoy fully the benefits of a competitive marketplace. When rate rebalancing occurs, implicit subsidies that now exist should no longer be an issue. In the meantime, a more meaningful and attainable objective for the Commission is to implement an effective, rational, and cost-effective universal service support program. To do so will require the Commission to adopt a revenue benchmark that accurately reflects the amount of money that customers are willing (and able) to spend on telephone service. Such a benchmark would provide a meaningful indicator of affordability and recognize the ILECs' substantial revenue stream that is inextricably linked to the provision of a customer's exchange service, which is not likely to be significantly eroded by competition in the foreseeable future.[8]

II. MUCH OF YELLOW PAGES' VALUE IS DERIVED FROM UNIVERSAL SERVICE (*E.G.*, THE ABILITY OF CUSTOMERS TO ACCESS YELLOW PAGES ADVERTISERS), MAKING IT APPROPRIATE TO USE YELLOW PAGES REVENUES TO CONTINUE TO SUPPORT THE UNIVERSAL SERVICE OBJECTIVE.

As the Committee has noted several times in the past, yellow pages directory revenues have long been used as a source of financial support for below-cost pricing of basic local exchange telephone service, principally (but not exclusively) the residential dial-tone exchange access line, and they should continue to support universal service in the future. While the *Public Notice* did

---

7 As discussed in Ad Hoc's earlier comments, the appropriate solution for inclusion of yellow pages revenues is to establish two separate revenue benchmarks -- one for the ILECs that includes yellow pages revenues and one for the CLECs that does not. *See* Ad Hoc Comments in CC Docket No. 96-45 (filed April 12, 1996) at 13-14.

8 In an *ex parte* filing with the Commission, one regional Bell Operating Company (RBOC"), SBC, identified some $816 million in annual company-wide vertical service revenues. *See* Letter dated July 24, 1996 from Todd F. Silbergeld, Director Federal Regulatory Affairs, to Mr. William F. Caton.

not specifically invite comment on whether yellow pages revenues should be included in the revenue benchmark, it does not foreclose that possibility. Inasmuch as no other party to this proceeding seems to feel constrained by the parameters the Commission set in the May 7, 1997 Report and Order,[9] it is appropriate to reiterate Ad Hoc's earlier proposal that yellow pages revenues must be accounted for in setting a revenue benchmark.

While the specific *pricing* of yellow pages listings and display advertisements is typically not subject to review or regulation, the net revenues from yellow pages are, in most jurisdictions, used to lower the LECs' intrastate revenue requirement.[10] Although there have been no legal barriers to competition in classified telephone advertising and directory services for many years, no serious competition has ever developed, and the yellow pages business remains the ILECs' monopoly business. In recognition of the enormous revenue (*i.e.*, subsidy) that yellow pages contributed to supporting basic exchange access services, the Bell Operating Companies ("BOCs") were permitted at divestiture to retain the yellow pages business. The divestiture Court expressly found that this large subsidy, on which ILECs had come to rely, "would most likely continue if the [BOCs] were permitted to continue to publish the Yellow Pages."[11] As the Court predicted, many state jurisdictions still require that yellow pages revenues be used in this manner.[12] Nothing from divestiture to the present has changed the basis for this public policy;

---

9 12 FCC Rcd 8776 (1997). *See generally* all of the proposals that have been put forth, culminating in the Commission's April 15, 1998 *Public Notice* seeking comments on the proposals, DA 98-715.

10 In some states, LECs have succeeded in removing yellow pages revenues altogether from their traditional support role, or in limiting the aggregate amount of such revenues that will be available for this purpose. Where this has occurred, there is less overall contribution available to support below-cost pricing of the universal service baseline, but this "problem" is of course of the LECs' own doing. Clearly, before new contribution burdens are imposed upon competing local carriers and others, LECs should be required to *re-include* their substantial yellow pages revenues within the overall support funding mechanism.

11 *U.S. v. AT&T*, 552 F. Supp. 131, 193-194 (D.D.C. 1982) (subsequent history omitted).

12 In those states that do not, the change in policy has been driven by intense pressure from the ILECs themselves. The decision to forego this support and, in essence, move the money from the company's regulated "pocket" to its unregulated "pocket," should not now allow the ILEC to ask its customers and competitors to replace this support.

therefore, ratepayers should continue to receive the benefit of yellow pages revenues in the form of an explicit offset against any universal service requirement for basic telephone service. This could be accomplished by including a "per-line" yellow pages revenue increment to the Commission's revenue benchmark.[13]

In addition to the public policy rationales, there are compelling economic justifications for this approach. Because yellow pages advertisers are paying primarily for access to the LECs' customer base, the *value* of the yellow pages directory to the ILEC is directly related to the total number of telephone subscribers in the coverage area. This value, which derives directly from the ubiquity of the incumbent, is not diminished merely because some individual subscribers may elect to take their dial tone service from a competing local carrier. It is not uncommon for such value to be translated into support for the underlying service; for example, newspapers, magazines, radio and television broadcasters all use advertising revenues to subsidize the content of their publications. Thus, inasmuch as the ILECs' yellow pages telephone directory derives its value (which translates into LEC profits) directly from the existence of near universal connectivity to the local network, it is justifiable from both a public policy and economical standpoint to require

---

13 The amount of revenue, expressed on a per-line basis, from yellow pages would be substantial. In its 1997 Annual Report, for example, Bell Atlantic reported a total of *$2.3 Billion* in "Directory and Information Service Revenues", described as being "primarily from local advertising and marketing services provided to businesses in our White and Yellow Pages directories . . . ." When spread across the 39.7 million access lines reported by Bell Atlantic as in-service for the same period, the result is per-line annual revenues of $57.88, or $4.82 per month. While its true that not *all* of that revenue is related to yellow pages, and that not all of it is revenue in excess of cost, the gross amount corroborates two state-specific *net* revenue amounts that the Ad Hoc Committee has reviewed. In a proceeding in Washington State, staff calculated that US West's yellow pages revenues translate into a minimum credit of $4.27 per month for each residential line. Thomas L. Spinks (Staff), Direct Testimony in WUTC UT-95-0200 (July 12, 1995) at 5. In 1992, net directory revenues in Massachusetts were $103 million (NYNEX-MA Cost of Service Study, 12 months ended November 30, 1992, Book I of VI, Tab A, page 001) and there were approximately 2.3-million households in the state (MCI Communications, Inc., NYNEX Corporation, Sprint/United Management Co., and US West, Inc., *Benchmark Costing Model: A Joint Submission* (Copyright 1995) submitted in CC Dkt. No. 80-286 (Dec. 1, 1995) at II-147). Thus the yellow pages revenues per household can be estimated at approximately $45.89 per year ($3.82 per month). Extrapolating to a national level from the lower Massachusetts figure yields a $4.2 billion source of revenue from LECs' yellow pages operations.

the substantial profits from yellow pages advertising to be used to support universal service.

III. SPECIFIC RESPONSES TO QUESTIONS RAISED IN THE PUBLIC NOTICE

The items below respond to the questions posed in the *Public Notice* at 8-9, which are identified at pages 1-2 of these Comments.

A. The revenue benchmark should be calculated including *all* access service revenues (both interstate and intrastate) with the exception of revenues associated with dedicated local transport facilities. This would include revenues generated by NTS and contributory-based access rate elements, SLCs, PICCs, ICs, CCLCs and local switching rate elements in the interstate tariffs, and comparable elements in the intrastate tariffs.[14] This would capture the majority of access revenues that are "tied" to the provision of the basic access line, while at the same time *excluding* the majority of access services that are purportedly not included in modeling forward-looking costs. SLC revenues should be attributed to the residential and business benchmarks based on the respective average SLC revenues for each of those customer categories. For the present time (at least pending the conclusion of the Commission's ongoing *Access Reform* transition schedule),[15] PICC, CCLC, IC, and local switching revenues should be attributed equally to the residential and business benchmarks based on the average revenues per line for all lines combined.[16]

B. Imputation of the access costs associated with LEC-provided intraLATA toll service, as opposed to the intraLATA toll revenues themselves, should be included in the revenue

---

14 If and to the extent that there are states that have not patterned intrastate access local transport charges after the FCC's restructuring (and consequently do not have a TIC element), switched local transport revenues should be included as well.

15 *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure, and End User Common Line Charges,* CC Dkts. Nos. 96-262, 94-1, 91-213, and 95-72, First Report and Order, 12 FCC Rcd 16,642 (released May 16, 1997).

16 It may be appropriate to revisit this in the future when the *Access Reform* transition is completed.

benchmark. Using the guideline of including all revenues that are expressly "tied" to the provider of the basic exchange access line to identify the services that should be included in the revenue benchmark, the intraLATA toll services available to most subscribers fall into a somewhat gray area. Absent 1+ intraLATA presubscription (available only in limited states at present), customers have the option to "dial-around" their local service provider and deliver their intraLATA toll calls to another provider, although experience dictates that few actually do so. The access components of these calls, however, is tied to the line, and an imputation of the access revenue that the LEC would receive *if the call were completed by another carrier* must be included in the revenue benchmark.[17]

C. If implemented as recommended in Sections A and B above, there is no need for additional "costs" of access or intraLATA toll to be reflected in the universal service calculations, either as a reduction in the revenue benchmark or an increase in the forward-looking costs.

D. Services that the "network that the universal service mechanism is designed to support" should include are all those identified in Sections A and B above. The Committee is not currently in a position to quantify the revenues associated with those services.

CONCLUSION

As discussed above, the Ad Hoc Committee urges the Commission to implement a revenue benchmark for use in determining universal service funding levels that includes all of the revenue streams that are interrelated to the provision of the dial-tone line, including those from local services (including usage), discretionary services, the NTS and contributory access service elements, and yellow pages. Adoption of these recommendations should result in an

---

17 This portion of the total intraLATA toll revenue would remain with the line even if the local service customer chose to "dial around" its local service provider and even in those rare instances when the local service customer can and does "PIC" another carrier to provide its intraLATA toll calls.

appropriately-sized universal service funding requirement that accounts for the entire package of services customers purchase in connection with the dial-tone line.

Respectfully submitted,

AD HOC TELECOMMUNICATIONS USERS COMMITTEE

By: Kevin S DiLallo

Economic Consultants:

Lee L. Selwyn
Susan M. Gately
Economics and Technology, Inc.
One Washington Mall
Boston, Massachusetts 02108-2617
(617) 227-0900

James S. Blaszak
Kevin S. DiLallo
Levine, Blaszak, Block & Boothby, LLP
2001 L Street N.W. Suite 900
Washington, D.C. 20036
(202) 857-2550

May 26, 1998

200.03/USF/SMG1 KSD revs

Certificate of Service

I, Molly A. McEwan, hereby certify that true and correct copies of the preceding Comments of the Ad Hoc Telecommunications Users Committee in CC Docket Nos. 96-45, 97-160 (DA 98-848) were served this 26th day of May, 1998 via hand delivery upon the following parties:

Sheryl Todd
Federal Communications Commission
Common Carrier Bureau
2100 M Street, NW
8th Floor
Washington, DC 20554

ITS
1919 M Street, NW
2nd Floor
Washington, DC 20554

Molly A. McEwan

Molly A. McEwan