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May 28, 1998

**Memorandum of Ex Parte Communication**

SECRET

MAY 28 1998

Ms. Magalie Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Dear Ms. Salas:

Re: CC Docket No. 96 - 262 - Access Charge Reform  
CC Docket No. 96 - 45 - Universal Service

Today the attached letter was delivered to Mr. Rich Lerner, Deputy Chief - Competitive Pricing Division. Please include a copy in the files of the above-listed proceedings.

We are submitting the original and one copy of this Memorandum to the Secretary in accordance with Section 1.1206(b)(2) of the Commission's rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me at (202) 326-8889 should you have any questions.

Sincerely,

  
cc: R. Lerner

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May 28, 1998

Mr. Rich Lerner  
Deputy Chief, Competitive Pricing Division  
Federal Communications Commission  
1919 M Street, Room 518  
Washington, D.C. 20554

Re: IXC Proposals for Per-Line Recovery of Universal Service Contributions

Dear Mr. Lerner,

SBC Communications, Inc. ("SBC") has reviewed the recent ex parte proposals of AT&T and MCI ("IXC proposals") for modifying the current universal service contribution and recovery mechanisms. The thrust of these proposals is to transform today's flawed recovery mechanism for universal service contributions into per-line charges billed to end-user customers, with the burden of collection imposed solely on carriers that have access lines or their equivalent.<sup>1</sup> While the proposals could result in a modest improvement over today's recovery mechanism, their shortcomings and questionable lawfulness prevent SBC from endorsing them.

In evaluating the IXC proposals, SBC examined them for compliance with the 1996 Act, with an emphasis on the requirements that all interstate carriers contribute on an equitable and nondiscriminatory basis, and that the mechanisms be sufficient, specific, predictable and competitively neutral. Today's rules are not competitively neutral, in part because the FCC has imposed rules solely upon price cap LECs dictating how they may recover their contributions, while all other carriers have almost complete latitude to decide how to recover their contributions. The principle of competitive neutrality is also violated by the price cap LECs being required to apply a productivity factor to those contributions, resulting in a reduction in the amount that price cap LECs are able to recover. SBC

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<sup>1</sup> The scope of these proposals are diverse, with minimal detail as to their actual operation or implementation. They range from including only the program costs for schools, libraries and healthcare support or, in the alternative, including high cost and Lifeline programs. Additional permutations include only recovering the funding obligations attributable to residential customers for the programs, or imposing the per-line charge on all local loops, local loop equivalents and wireless numbers.

believes that each telecommunications provider must be permitted the *identical* opportunity to recover its universal service obligations, which could include a per-line charge on its end-user bills and would not include unwarranted reductions such as application of a productivity factor. To be perfectly clear, SBC is not suggesting that other interstate carriers should be subjected to the pervasive regulation that SBC's local exchange carrier subsidiaries currently experience. Instead, if an industry-wide surcharge is not mandated, then all interstate carriers *including price cap LECs* should be permitted to make their own business decisions on where and how to recover the cost of these contributions.

Certain aspects of the IXC proposals are profoundly troubling. Most disturbing are those proposals that would have the LECs and some or all wireless service providers be responsible for the providing or collection of some or all universal service amounts, including contribution amounts that Congress clearly intended would be the responsibility of interstate IXCs. The proposal that IXCs not be responsible for contributing to universal service support alone is a fundamental violation of the plain language of section 254 (d) and its requirement that every interstate telecommunications carrier contribute in an "equitable and nondiscriminatory" manner.

The IXC proposals are also premised on various assumptions that are incorrect. First, the IXCs suggest that LECs can be required to collect the IXCs' universal service obligations, while ignoring the competitive implications or the costs imposed upon the LECs of performing such recovery. Obviously LEC billing systems would require updating to perform the functions the IXCs suggest. Moreover, as recent experience arising from the actions of various IXCs has confirmed, new line-items on customer bills generate customer inquiries and complaints that must be addressed and resolved. Each of these activities bring with them costs that LECs would not otherwise incur and would be entitled to recover. Billing and collection is a service offered by LECs (and others) today that both AT&T and MCI have purchased. There is no reason here for any IXC to be given involuntary, free billing and collection service from any third party, including LECs.<sup>2</sup> If the IXCs are unwilling to compensate the LECs for the cost of providing such a service on their behalf, the IXCs must then be responsible for their own billing arrangements and associated costs.

As you requested, SBC has prepared estimates of the monthly per-line amounts that would be necessary to recover the universal service contributions of its local exchange carrier subsidiaries. These estimates are based on the proposed third quarter universal service contribution factors contained in the Commission's May 13, 1998 Public Notice and include the amounts for schools, libraries, healthcare, high cost and Lifeline funds. The per-line estimates are:

Southwestern Bell Telephone Company	\$0.81
Pacific Bell	\$0.76
Nevada Bell	\$0.63

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<sup>2</sup> If the price cap LECs were requested to bill on behalf of the IXCs, any amount collected on behalf of the IXCs should appear and be identified separately on their billing page.

If you would like to discuss this further, please contact me at (202) 326-8889.

Sincerely,

A handwritten signature in black ink that reads "Jay Bennett". The signature is written in a cursive style with a large, looping initial "J" and a horizontal line above the "t".