

ORIGINAL

DOCKET FILE COPY ORIGINAL RECEIVED

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

JUN 12 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Policies and Rules for Alternative	)	
Incentive Based Regulation of	)	
Cosat Corporation	)	IB Docket No. 98-60
	)	
	)	
	)	
	)	
	)	
	)	

AT&T REPLY COMMENTS

AT&T Corp. ("AT&T") hereby submits these Reply Comments in response to the Order and Notice of Proposed Rulemaking in the above-referenced proceeding ("*Order & NPRM*").

All parties commenting in this proceeding support the Commission's proposal (*id.*, ¶ 165) to replace traditional rate of return regulation for Cosat's non-competitive markets with an alternative incentive based regulation plan that would remain in effect indefinitely and allow all users of services to those markets to benefit both from a competitive rate and from reduced rates due to increases in efficiency and productivity. The plan offered by Cosat, however, provides no assurance that Cosat will pass through to consumers a reasonable portion of the benefits of productivity growth. Cosat's price cap proposals

No. of Copies rec'd  
List ABCDE

ONE

for private line services are also little different from those previously found to be deficient by the *Order & NPRM*.

In the absence of data regarding Comsat's reasonably expected future productivity growth, all Comsat's non-competitive services should rather be regulated under a similar price cap regime to that for the large LECs. AT&T also suggests that, following the initial request for comment in the *Order & NPRM*, the Commission should invite the submission of further comments in response to a more concrete proposal before adopting any specific plan.

**I. COMSAT FAILS TO JUSTIFY ITS PROPOSED REDUCTIONS FOR SWITCHED VOICE SERVICES.**

Comsat's price cap proposal for low-volume users of switched voice service would lower rates by only 4 percent annually through 2002, with the mechanism to be applied thereafter to be subject to review. Comsat asserts (p. 8) that its proposed 4 percent annual reduction "would provide COMSAT with a real incentive to remain efficient" and (p. 10) is "roughly comparable" to efficiencies achieved by other telecommunications companies. But in the absence of data concerning Comsat's future productivity growth, these claims are unpersuasive. If other telecommunications companies are to provide the model, Comsat fails to explain why it should not be subject to the 6.5 percent annual reductions in inflation-

adjusted rates that are required under the price caps for the large LECs.<sup>1</sup>

There is certainly no basis to Comsat's claim (p. 3, n.6) that the Commission found the price caps that apply to the large LECs "inappropriate here." The paragraphs of the *Order & NPRM* that are cited by Comsat in support of this assertion merely state (§ 146) that the record is inadequate for the Commission to develop a price cap regime, and that (§ 149) "[b]ecause Comsat's proposed price caps lacks an appropriate X-Factor for adjusting the price cap, we cannot be sure that consumers will be protected."

Indeed, Comsat puts forward none of the data required to ensure that its price caps would result in just and reasonable rates. The Commission explained (§ 146):

"[T]he record in this proceeding is not adequate to enable us to develop a price cap regime that would ensure the Comsat's rates for switched voice, private line and

---

<sup>1</sup> See *Price Cap Performance Review for Local Exchange Carriers*, 12 FCC Rcd. 16642 (1997) (Fourth Report and Order). Comsat suggests (p. 10) that the Commission's optional incentive regulation of smaller and mid-sized carriers provides a more appropriate model as they are "comparable to COMSAT in size." However, the optional incentive regulation of smaller and mid-sized carriers was intended to "'recognize the unique circumstances' facing smaller LECs." *Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation*, 8 FCC Rcd. 4545, 4546 (1993) (Report and Order). The Commission recognized concerns by smaller LECs including business cycles being "too long to comply with price cap's annual adjustments" and "that the financial effect of facility upgrades [was] too great to be reconciled with the Commission's price cap framework." *Id.* Comsat makes no showing that any such concerns are relevant here, or why it otherwise should not be subject to the greater incentives to increase efficiency that are provided by the price cap regulation of the large LECs.

occasional-use video service in non-competitive markets will be just and reasonable in the future. Specifically, there are no data in the record regarding reasonably expected future productivity growth in Comsat's provision of these services, and so we cannot determine what X-factor would be appropriate."

Without such data, there can be no confidence that the price cap proposal put forward by Comsat would require a sufficient portion of its future productivity gains to be flowed through to consumers.

**II. COMSAT'S PRIVATE LINE PROPOSAL ALSO FAILS TO ENSURE JUST AND REASONABLE RATES ON NON-COMPETITIVE ROUTES.**

The *Order & NPRM* (§§ 145-46) denied Comsat's request for forbearance from dominant carrier regulation because it found that Comsat's original proposal to cap its current tariff rates, to continue uniform pricing on all geographic routes and to end all dominant carrier regulation on January 1, 2000 were insufficient to ensure that Comsat's rates would remain just and reasonable. Notwithstanding this decision, Comsat's new price cap proposal for private line service on thin routes also relies upon uniform tariff rates across all geographic markets capped at current levels.

Comsat again claims (pp. 11-12) that such uniform rates are competitive because they "were designed to meet competition in the thick route market for private line services." The Commission rejected this argument in the *Order & NPRM* (§ 145) because it found that Comsat's steeply declining market share in switched voice and private line markets (from 70 percent in 1988 to 21 percent in 1996) was the result of charging high prices in

competitive markets. Comsat contends (p. 11) that the Commission overlooked a 1997 private line price decrease of 8 percent. However, this price reduction does not show that the Commission's former conclusions were misplaced as it occurred after Comsat's major loss of market share.

There is also no basis to Comsat's claim (p. 4) that approval of its proposal is also warranted "in view of the relatively tiny size of its thin route markets." As the *Order and NPRM* (¶ 129) has made clear, neither the routes nor the regulatory issues involved here are "de minimis" in nature.

CONCLUSION

For these reasons, the alternative incentive based regulation plan proposed by Comsat does not meet the requirements set forth in the *Order and NPRM*. Without data regarding Comsat's reasonably expected future productivity growth, the most appropriate model for such a plan should rather be the price cap regime adopted for the large LECs. AT&T also suggests that the Commission invite the submission of further comments in response to a more concrete proposal before adopting any specific plan for the future regulation of Comsat's non-competitive routes.

Respectfully submitted,

AT&T Corp.

By: James Talbot

Mark C. Rosenblum  
Lawrence J. Lafaro  
James J. R. Talbot

Its Attorneys

295 N. Maple Avenue  
Room 3252H3  
Basking Ridge, NJ 07920  
(908) 221-8023

June 12, 1998

## CERTIFICATE OF SERVICE

I, Michelle Martin, do hereby certify that on this 12<sup>th</sup> day of June, 1998 a copy of the foregoing was mailed by U.S. first class mail, postage prepaid, upon the parties on the attached service list:



Michelle Martin

SERVICE LIST

Ambassador Vonya B. McCann  
United States Coordinator  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 4826  
2201 C Street, N.W.  
Washington, DC 20520-1428

Joan Donoghue  
Assistant Legal Adviser for  
Economic, Business and  
Communications Affairs  
Office of the Legal Adviser  
2201 C Street, N.W.  
Department of State  
Washington, DC 20520-6310

Robin R. Layton  
ITA  
Department of Commerce  
Room 4324  
14th St. & Constitution NW  
Washington, DC 20230

Richard Beaird  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 4836  
2201 C Street, N.W.  
Washington, DC 20520-1428

Steven Lett  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 4826  
2201 C Street, N.W.  
Washington, DC 20520-1428

Anthony Cina  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 4826  
2201 C Street, N.W.  
Washington, DC 20520-1428

Gary Couey  
Bureau of International  
Communications and  
Information  
Policy  
Department of State  
Room 4826  
2201 C Street, N.W.  
Washington, D.C. 20520

Shirl Kinney  
Deputy Assistant Secretary  
for Communications and  
Information  
NTIA  
Department of Commerce  
Room 4898  
14th Street &  
Constitution, N.W.  
Washington, D.C. 20230

Suzanne Settle  
Senior Policy Advisor  
Department of Commerce NTIA  
Room 4701  
14th St. & Constitution, N.W.  
Washington, DC 20230

Jack Gleason,  
Acting Administrator  
Office of International  
Affairs  
Department of Commerce NTIA  
Room 4701  
14th St. & Constitution, N.W.  
Washington, DC 20230

Larry Irving  
Assistant Secretary for  
Communications and  
Information  
Department of Commerce NTIA  
Room 4898  
14th St. & Constitution, N.W.  
Washington, DC 20230

Barbara Wellberry  
Chief Counsel  
Department of Commerce NTIA  
Room 4713  
14 St. & Constitution Ave. NW  
Washington, DC 20230

Cathleen Wasilewski  
Attorney Advisor, Office of  
Chief Counsel  
Department of Commerce NTIA  
Room 4713  
14th St. & Constitution N.W.  
Washington, DC 20230

John Dalton  
Secretary of the Navy  
Office of the Secretary  
Department of the Navy  
The Pentagon  
Washington, DC 20310

Dr. James E. Soos  
Deputy Assistant Secretary  
of Defense for C3  
Room 3E194  
6000 Defense Pentagon  
Washington, DC 20301-6000

Carl Wayne Smith, Esq.  
Code AR Defense Information  
Systems Agency  
701 South Courthouse Road  
Arlington, VA 22204

Office of General Counsel  
National Security Agency  
9800 Savage Road  
Fort Meade, MD 20755-6000

Robert S. Koppel  
VP - Legal & Regulatory  
Affairs  
Worldcom  
15245 Shady Grove Road  
Suite 460  
Rockville, MD 20850-3222

John Scorce  
MCI International, Inc.  
1801 Pennsylvania Ave., N.W.  
Washington, DC 20006

Gail Polivy, Esq.  
GTE Hawaiian Telephone Company  
1850 M Street, N.W.  
Washington, DC 20036

Keith H. Fagan  
COMSAT Communications  
6560 Rockspring Drive  
Bethesda, MD 20817

Michael Fingerhut  
Leon Kestenbaum  
Kent Nakamura  
Sprint Communications  
Company L.P.  
1850 M Street, N.W.  
Washington, DC 20036

Joseph A. Godles  
W. Kenneth Feree  
GOLDBERG, GODLES, WIENER &  
WRIGHT  
ATTORNEYS FOR PANAMSAT  
CORPORATION  
1229 Nineteenth Street, N.W.  
Washington, DC 20036

Ralph J. May  
SUTHERLAND, ASBILL & BRENNAN,  
LLP  
1275 Pennsylvania Ave., N.W.  
Washington, DC 20004-2404

Charlene Vanlier  
ABC, INC.  
21 Dupont Circle  
6<sup>th</sup> Floor

Washington, DC 20036

Mark W. Johnson  
CBS CORPORATION  
Suite 1200  
600 New Hampshire Avenue, N.W.  
Washington, DC 20037

Diane Zipursky  
NATIONAL BROADCASTING  
COMPANY, INC.  
Warner Building, 11<sup>th</sup> Floor  
1299 Pennsylvania Avenue, N.W.  
Washington, DC 20004

David C. Kohler  
TURNER BROADCASTING SYSTEM,  
INC.  
One CNN Center  
P.O. box 105366  
100 International Blvd.  
Atlanta, GA 30348

Lawrence W. Secrest, III  
Gregory J. Vogt  
Rosemary C. Harold  
ATTORNEYS FOR COMSAT  
CORPORATION  
WILEY, REIN & FIELDING  
1776 K Street, N.W.  
Washington, DC 20006