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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review for Local Exchange Carriers)	CC Docket No. 94-1
)	
Consumer Federation of America, International Communications Association and National Retail Federation Petition Requesting Amendment of the Commission's Rules Regarding Access Charge Reform and Price Cap Performance Review for Local Exchange Carriers)	RM No. 9210

COMMENTS

Pursuant to Section 1.415 and 1.419 of the Commission's Rules (47 C.F.R.

Sections 1.415, 1.419) and Commission Public Notice¹, the Consumer Federation of

America ("CFA"),² International Communications Association ("ICA"),³ and National

¹ *Commission Asks Parties to Update and Refresh Record for Access Charge Reform and Seeks Comment On Proposals for Access Charge Reform Pricing Flexibility*, CC Docket Nos. 96-262, 94-1, 97-250, RM-9210 (FCC 98-256)(rel. October 5, 1998)("Public Notice").

² CFA is a membership organization whose more than 240 members are themselves organizations with a combined membership exceeding 50 million people. CFA engages in public advocacy and education on issues facing consumers. The primary mission of the CFA is to promote pro-consumer policies on a variety of issues before Congress, regulatory agencies and courts.

³ICA is the largest association of telecommunications users in the United States, with approximately 400 members who typically spend at least \$1 million per year on

Retail Federation (“NRF”)⁴ submit these comments in the above-referenced proceedings.

CFA, ICA, and NRF commend the Commission for taking welcome steps in the direction of American consumers by releasing its Public Notice. Last December, CFA, ICA, and NRF petitioned the Commission to initiate a rulemaking addressing the immediate prescription of interstate access rates to cost-based levels because there was no meaningful level of competition and residential and business consumers were being forced to pay bloated interstate access charges.⁵ Customer groups filing in support of the Consumer Petition all agreed that there is *no* evidence of the existence of meaningful levels of competition. Slightly more than ten months after the filing of the Consumer Petition, little has changed.

The Commission’s *First Report and Order*⁶ recognized that excessive interstate

acquisitions of information and telecommunications services and equipment. Because of ICA members’ reliance on information and telecommunications technologies to improve the competitiveness of their daily operations, ICA members’ telecom expenditures are growing. ICA members collectively spend approximately \$32 billion annually on their information and telecommunications needs.

⁴NRF is the world’s largest retail trade association with membership that includes the leading department, speciality, discount, mass merchandise, and independent stores, as well as 32 national and 50 state associations. NRF members represent an industry that encompasses over 1.4 million U.S. retail establishments, employs more than 20 million people — about 1 in 5 American workers — and registered 1996 sales of nearly \$2.5 trillion. NRF’s international members operate stores in more than 50 nations.

⁵ Consumer Federation of America, International Communications Association, and National Retail Federation Petition for Rulemaking, RM-9210 (Dec.9, 1997)(“Consumer Petition”).

⁶*First Report and Order*, In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges, CC Docket Nos. 92-262, 94-1, 91-213 & 95-72, FCC 97-158 (rel. May 16, 1997), *review pending sub nom. Southwestern Bell Tel. Co. v. FCC*,

access charges are harmful to telephone consumers and to the American economy.

Unfortunately, the Commission chose to rely on the anticipated development of local service competition. Today, it is even clearer that meaningful levels of local telephone service competition will not develop in the foreseeable future. Also, appellate rulings have undermined the Commission's efforts to establish the basic elements of local competition, including fair and uniform pricing and reasonable access to unbundled network elements ("UNEs").

Given total consensus among telecommunications customers regarding the lack of meaningful levels of competition and the disruption to Commission efforts to stimulate local competition caused by appellate rulings, the Commission must significantly alter its decision to rely on non-existent local competition to reduce interstate access charges to cost. Since interstate access charges continue to massively exceed cost-based levels and contribute to the overall financial success of the major LECs, it is not surprising that these companies are out-performing most American businesses. After reviewing recent 1998 3rd quarter financials of the major LECs, leading financial analysts indicated that these LECs' "earnings growth is superior to the S&P 500" and "dividend yields are 66% higher than the S&P 500."⁷

The Commission's Public Notice wisely asks parties to comment on last years' Access Charge Reform and Price Cap Orders, in addition to the Consumer Petition. If the

Nos. 97-2866/2873/2875/3012 (8th Cir.).

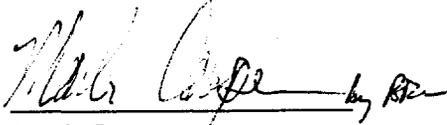
⁷ Merrill Lynch Comment on *Telecom Services — Local* by Daniel Reingold and John Sini, Jr. (October 5, 1998).

Commission follows the suggestions made by numerous non-LEC parties in these proceedings, it will ensure that residential and business consumers pay rates that are significantly lower and more cost-based. CFA, ICA, and NRF recommend that the Commission consider the price cap rules changes along the lines proposed by a broad cross-section of the industry.⁸

In its *First Report and Order*, the Commission made it clear that if local competition failed to develop, it would be necessary to adopt a prescriptive approach to interstate access charges. While it is fair to say that competition for the provision of interstate access services is growing, it is also quite clear that local competition has yet to even threaten to approach meaningful levels. Therefore, common sense dictates that the time for a prescriptive approach is clearly here. With its Public Notice, the Commission has wisely referenced the key proceedings that contain proposals for accomplishing a *swift* prescription of interstate access charges to lower and more cost-based levels. By doing so, the Commission will ensure that this nation's captive residential and business consumers are not left twisting in the winds of false competitive assumptions, appellate court invalidations, and bloated interstate access charges. If American telephone consumers are not to receive the immediate benefits of meaningful local competition, the Commission has an obligation to ensure that they at least pay charges that accurately reflect today's costs.

⁸ See Customers for Access Rate Equity ("CARE") Coalition *Written Ex Parte* — CC Docket Nos. 91-213, 94-1, 95-72, and 96-262 ("CARE Ex Parte").

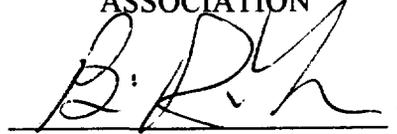
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