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DIVISION OF COMMUNICATIONS

November 20, 1998

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
1919 M St. N.W., Room 222
Washington, D.C. 20554.

RE: 1998 Biennial Regulatory Review -
Review of Depreciation Requirements
For Incumbent Local Exchange Carriers
CC Docket No. 98-137
and
United States Telephone Association's
Petition for Forbearance From Depreciation
Regulation of Price Cap Local Exchange
Carriers – ASD 98-91

Dear Ms. Salas:

Enclosed please find comments of the Virginia State Corporation Commission Staff in the above referenced case.

Very truly yours,

William Irby

William Irby
Director

WI:js
Enclosure

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

In the Matter of	)	CC Docket No. 98-137
	)	
1998 Biennial Regulatory Review -	)	
Review of Depreciation Requirements	)	
For Incumbent Local Exchange Carriers	)	
and		
United States Telephone Association's	)	ASD 98-91
Petition for Forbearance From Depreciation	)	
Regulation of Price Cap Local Exchange Carriers	)	

COMMENTS OF THE

VIRGINIA STATE CORPORATION COMMISSION STAFF

Virginia State Corporation Commission
Division of Communications
1300 East Main Street - 9th Floor
Box 1197
Richmond, Virginia 23218

November 20, 1998

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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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COMMENTS OF THE

VIRGINIA STATE CORPORATION COMMISSION STAFF

The Division of Communications Staff of the Virginia State Corporation Commission ("VSCC") respectfully submits these comments in response to the Federal Communications Commission's ("FCC") Notice of Proposed Rulemaking ("NPRM") in this docket, released October 14, 1998. In addition, the VSCC submits comments in response to the FCC's Public Notice requesting comments on the United States Telephone Association's ("USTA") petition for forbearance of depreciation regulation filed on September 21, 1998.

INTRODUCTION

The depreciation prescription process is a central feature of traditional cost-of-service or rate-of-return regulation. Historically, each incumbent local exchange carrier ("ILEC") submitted a depreciation rate study that was reviewed by both the FCC staff and representatives of the state commissions for the jurisdiction covered by the study.

This depreciation prescription process required carriers to submit data in a standard format for the projection life, survivor curve, and future net salvage parameters underlying their proposed depreciation rates.

Over the years, the FCC has taken steps to streamline and simplify the depreciation prescription process. A price cap ILEC that proposes life and salvage factors within FCC approved ranges no longer needs to file detailed support for those rates. However, the expectation is that an ILEC should still be able to document, support and certify that the rate development is consistent with company operations and quantifiable plans.

This NPRM proposes to reduce or further streamline the depreciation prescription process by 1) permitting summary filings, 2) eliminating prescribing depreciation rates for ILECs, provided that the carrier uses depreciation factors that are within ranges adopted by the FCC, 3) expanding the range for the digital switching plant account, and 4) eliminating salvage from the depreciation process. This Notice also seeks comment on whether carriers should be allowed to set their own depreciation rates if they are willing to waive the automatic low-end adjustment.

BACKGROUND

Under current rules, the FCC prescribes depreciation rates for ILECs with annual operating revenues of $112 million or more. These carriers compute depreciation rates using a formula that considers the carrier's accumulated depreciation balance, average remaining life ("ARL") and future net salvage ("FNS") for each plant account.

Price cap regulation largely eliminates the direct link between costs and prices. However, as the NPRM notes, regulation of ILEC depreciation study methods and rates

is still required, even under current price cap rules. Even though this industry is moving towards a more competitive environment, depreciation remains a critically important area, in particular, whenever intrastate regulation is still based upon cost-of-service or rate-of-return calculations, state commissions are required to determine rates for network elements or interconnection pursuant to the Telecommunications Act of 1996, (the "Act") or the FCC and/or state commissions require ILECs to utilize depreciation factors to calculate universal service costs. Our comments on specific proposals follow.

PERMITTING SUMMARY FILINGS

We generally support the proposal to reduce filings to four summary exhibits and the electronic data files used to generate them, provided carriers select depreciation factors from within the ranges and certify that their selections are consistent with their operations. Additionally, the company should maintain such source data, documents and studies to support any cost-of-service, rate-of-return, or rate setting activities that may become necessary in the future.

ELIMINATE PRESCRIPTION OF DEPRECIATION RATES

The proposal to eliminate FCC prescription of depreciation rates is reasonable under the condition that a carrier is no longer subject to cost-of-service or rate-base, rate-of-return regulation, and that carrier selected depreciation rates are not used in setting regulatory prices or in calculating universal service costs. FCC prescribed or state commission prescribed depreciation rates and/or parameters should continue to be used for pricing such items as unbundled network elements and in universal service cost proceedings. For example, the Virginia Commission no longer requires regulatory prescription of depreciation rates for companies operating under alternative regulatory

plans that are not based on rate-of-return or cost-of-service regulation. However, in a recent proceeding to determine prices for unbundled network elements, this Commission required the use of FCC/VSCC-prescribed forward-looking parameters of projection lives and future net salvages. As a general rule of thumb, regulatory scrutiny of depreciation rates and parameters should remain in place so long as regulated rates are affected. Such prescriptions may be done on an "as needed" basis, however, to eliminate routine depreciation study and filing requirements.

EXPAND THE PRESCRIBED RANGE FOR DIGITAL SWITCHING PLANT ACCOUNT

We generally support the proposal to expand the range for digital switching equipment from a range of 16 to 18 years to a wider range of 13 to 18 years. This proposal will permit a carrier that is able to support life estimates between 13 and 16 years to select a new life estimate without an out-of-range filing.

PROPOSED TREATMENT FOR SALVAGE AND COST OF REMOVAL

Salvage and cost of removal are two of the components that are currently considered in calculating depreciation rates. The two are netted to a single amount (net salvage) which is used in the rate formula. The requirement to estimate future gross salvage and cost of removal adds yet another element of complexity and speculation to a process that is already quite complex. Eliminating this requirement will likely result in more accurate depreciation rates and expense levels. We support this proposal. This, of course, will require that existing depreciation rates be recalculated.

USTA PETITION

This section of the VSCC comments specifically address the USTA petition for forbearance from depreciation regulation of price cap local exchange carriers. The USTA petition states that the conditions as outlined in Section 10(a) of the Act 47 U.S.C.§ 160(a) have been satisfied and therefore forbearance of depreciation regulation is warranted.

In light of our comments above regarding the FCC's NPRM, we cannot fully support the USTA petition. In any event, the FCC's consideration of forbearance of depreciation regulation should not be viewed as a possible preemption of state regulatory authority under Section 10(e)[1] of the Act. If the FCC were to adopt forbearance of depreciation regulation, it should specifically recognize that such action in no way interferes with the prescription responsibilities of state commissions when and where required for intrastate purposes.

CONCLUSION

We generally support the effort to further simplify depreciation regulation. In particular, the proposal to reduce filings to four summary exhibits is reasonable provided carriers certify that their selections are consistent with their operations and maintain such source data, documents and studies to support-cost-of-service, rate-of-return, or other regulatory activities that may convene in the future.

Although we recognize that, for most price cap carriers, depreciation generally is no longer used in setting prices, it affects many other aspects of the regulation of ILECs.

[1] § 10(e) STATE ENFORCEMENT AFTER COMMISSION FORBEARANCE- A state commission may not continue to apply or enforce any provision of this Act that the Commission has determined to forbear from applying under subsection (a).

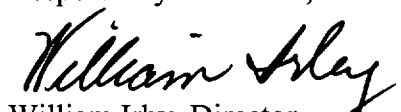
We suggest there is no need to require or continue the traditional depreciation rate prescription process; however, it will still be necessary to prescribe rates and/or parameters on an "as-needed" basis for such things as setting prices for unbundled network elements and interconnection, as well as determining universal service costs.

We have no objection to the proposal to expand the service life range for digital switching equipment.

It appears to us that the elimination of net salvage from the depreciation rate prescription process is logical, and will eliminate one of the more speculative elements therein. We note that the financial impact of this change needs to be studied and quantified.

We generally support the simplification initiatives within this NPRM. However, for the reasons stated herein, we cannot support the USTA petition of total forbearance of depreciation regulation, and in no event should this be viewed as a possible preemption of state authority under Section 10(e) of the Telecommunications Act.

Respectfully submitted,



William Irby, Director
Division of Communications
Virginia State Corporation Commission

CERTIFICATE OF SERVICE

I, Judy I. Shapard, do hereby certify that a copy of the foregoing was mailed to the following on November 20, 1998.

Judy I. Shapard

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