

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

In the Matter of)
Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

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COMMENTS OF AMERITECH FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ameritech submits these comments of the Commission's further notice of proposed rulemaking in the above-captioned docket¹ on the issue of separating interstate and intrastate wireless revenues for the purpose of assessing contributions to federal universal service funds and on the issue of requiring that usage be included in basic service packages provided by eligible telecommunications carriers ("ETCs").

I. METHODS FOR SEPARATING INTERSTATE AND INTRASTATE WIRELESS REVENUES SHOULD BE BASED ON WIRELESS DATA.

In the FNPRM, the Commission has specifically solicited comments on methods of determining the percentage of wireless revenues that are interstate for purposes of assessing contributions to the federal universal service funds. In the interim, the Commission has established a "safe-harbor" interstate percentage for broadband PCS and cellular service at 15%.²

¹ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 98-278 (rel. October 26, 1998) ("FNPRM").

² FNPRM at ¶11-13. The Commission obtained the 15% figure from the percentage of interstate wireline traffic reported by the small rural wireline carriers for dial equipment minute ("DEM") weighting subsidy purposes.

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If a broadband PCS or cellular carrier reports less than 15% of its revenues as interstate, it would have to be prepared to document the method by which it arrived at the reported percentage.

Ameritech does not oppose such an assumed percentage on an interim basis, as long as broadband PCS or cellular carriers have the ability to file different percentages as appropriate. However, for long term purposes, such assumed percentages are problematic. In the case of the Commission's assumed percentage for broadband PCS and cellular, there is little reason to believe that the interstate calling patterns of the customers of small rural wireline carriers would be the same as both broadband PCS and cellular service customers. Nor is there any basis to conclude that all cellular and broadband PCS operations should necessarily be attributed with the same percentage. Different market demographics and different pricing plans (e.g., AT&T's "One-Rate" plan) may result in very different percentages of interstate calling from market to market and carrier to carrier.

The Commission should, therefore, not establish a set percentage long term for wireless providers,³ but rather it should require carriers to file company-specific percentages determined by periodic traffic studies utilizing reasonable assumptions for the determination of the jurisdictional nature of certain calls. For cellular services, the AirTouch methodology has much to be recommended. Each carrier would determine an interstate percentage by looking at outgoing calls and comparing the originating switch location⁴ with the terminating area code. This

³ At a minimum, if the Commission does establish a fixed percentage, it should be based on wireless data, and the Commission should still allow carriers to file different percentages if justified -- as its interim arrangement permits.

⁴ It should be noted that, in certain situations, a switch can serve cell sites in more than one state. For example, in Ameritech's case, its Chicago MTSO serves cell sites in Chicago and in Gary, Indiana. However, "errors" resulting from characterizing calls from a Gary cell site to a Chicago phone number as intrastate would tend to be

percentage would be applied to air time revenues and monthly access charges. Separate revenues from long distant charges can be directly assigned by the nature of the calls.

While AirTouch seems to perform this tracking on a continuous basis for state tax purposes, the same is not true for all carriers. Therefore, carriers should not be required to do this tracking continuously simply for the purpose of allocating revenues for universal service contributions. Instead, Ameritech proposes that snapshot studies using this methodology be done on a periodic basis, but no more frequently than annually, and the percentage adjusted as appropriate.

Comcast's proposal to use Major Trading Areas ("MTAs") as a basis for reporting⁵ should not be adopted. Currently, Ameritech and other cellular providers do not track calls on the basis of MTAs and systems would have to be completely changed in order to do so. Moreover, tracking based on license areas⁶ would be disadvantageous to cellular providers since their MSAs and RSAs are smaller license areas than PCS's MTAs. If license areas were used, PCS providers would report an unjustifiably smaller portion of their traffic as interstate than would cellular providers.

cancelled by characterizing calls from a Gary cell site to a Gary phone number as interstate.

⁵ FNPRM at ¶24, 32.

⁶ *Id.* at ¶32.

II. THE COMMISSION SHOULD NOT SPECIFY AN AMOUNT OF USAGE TO BE INCLUDED IN BASIC SERVICE PACKAGES OFFERED BY ELIGIBLE TELECOMMUNICATIONS CARRIERS.

Section 254 of the Telecommunication Act of 1996 specifies that, in order to be an “eligible telecommunications carrier” (“ETC”) entitled to universal support, a carrier must, among other things, offer services supported by federal universal service support mechanisms throughout its service area. In its Universal Service Order,⁷ the Commission agreed with the Joint Board’s recommendation that ETCs should provide some minimal amount of usage as part of the basic service packages quoted services. In the FNPRM, the Commission solicited comment on how much, if any, local usage it should require ETCs to provide as part of a basic service package in order to qualify for federal universal service support for basic telecommunication service.⁸ In soliciting comments, the Commission identified numerous complicated issues associated with specifying a minimal amount of local usage -- e.g., whether such requirement should be as a certain number of minutes or a certain number of calls, how much local usage should be included in the basic service package given fact that the average number of calls varies by location, whether differences in the size of local calling areas should matter, whether a price limit should be imposed on such a basic service package to ensure that it constituted a “realistic option” for customers.⁹

⁷ *In Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157 (rel. May 8, 1997) (“Universal Service Order”).

⁸ FNPRM ¶46.

⁹ *Id.* at ¶50-53.

Ameritech strongly disagrees with the notion that the Commission should require that a minimum amount of usage be offered as part of a basic local service package in order for a carrier to qualify as an ETC. Such a requirement, of course, is not necessary to comply with the statute. Clearly, all carriers that offer "access" to the network will also offer usage. Nor would such a requirement be necessary for usage to be "supported" by the federal universal service plan. As currently contemplated, usage will be supported to the extent that it is included in the cost model ultimately adopted by the Commission for determining federal universal service support.

Rather, by dictating that usage be included in a basic service package (i.e., at flat rate), the Commission would begin to intrude itself into state pricing decisions. To the extent that the Commission would dictate the amount of usage to be included in a monthly flat rate for local service, it would be interfering in a matter clearly within the jurisdiction of and of special concern to state regulatory bodies -- i.e., the pricing of local exchange service. In determining a proper balance between affordability of rates and adequate cost recovery for local exchange carriers, state commissions must make decisions not only as to rate levels but also as to rate structures -- e.g., what portion of cost recovery should be done through flat-rate charges and what portion should be done through usage-based charges. In setting a proper balance, a state commission could, for example, decide to set flat rate monthly "access" fees at a low level relative to cost but price usage separately on a per call or per minute basis at a higher level relative to cost. In this way, the state could attempt to make sure that a telephone is available to a larger number of subscribers. By requiring that some usage be included in the flat rate, the Commission could do significant damage to such a decision or significantly interfere with the states ability to adopt such an arrangement.

This type of Commission action is particularly inappropriate in light of the Commission's

prior finding that existing local rates are generally affordable¹⁰ and that the states should exercise initial responsibility for determining the affordability of rates including dealing with “legitimate local variations in rate design.”¹¹

The Commission contends that it must set an appropriate minimum level of usage for local service in order to uphold competitive neutrality.¹² The Commission claims that different technologies have different cost and rate structures. While this may be true, it is unclear that forcing all carriers to have the same rate structure is necessary to ensure competitive neutrality. It does not violate the principle of competitive neutrality to permit carriers to structure their rates differently to accommodate different technologies that have different cost structures. In fact it might well violate the principle of competitive neutrality to compel all carriers to have the same rate structure that precludes them from recognizing differences in their cost structures. In a truly competitive market place, competitors with different technologies are free to implement different rate structures to coincide with their cost structures.

¹⁰ Universal Service Order at ¶112.

¹¹ *Id.* at ¶¶117-118. *See also*, ¶¶119-120 regarding Commission intervention in these state matters only in extraordinary circumstances.

¹² FNPRM at ¶47.

Moreover the plethora of issues that Commission raises in connection with prescribing that usage be included in a basic service package only serves to emphasize the wisdom of avoiding such a ruling in the first instance. The Commission should, therefore, not prescribe a minimum amount of usage that must be included in basic service package, in order for a carrier to qualify as an ETC.

Respectfully submitted,

 (A handwritten signature in cursive script that reads "Michael S. Pabian" with a circled "dv" to the right.)

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CERTIFICATE OF SERVICE

I, Grace Germain, do hereby certify that a copy of the foregoing Comments of Ameritech has been served on the parties listed on the attached service list, via first class mail, postage prepaid, on this 11th day of January, 1999.

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