Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Jurisdictional Separations Reform	)	CC Docket No. 80-286
And Referral to the Federal-State	)	
Joint Board	)	

Comments of the Smithville Telephone Company
on the STATE MEMBERS' REPORT
ON COMPREHENSIVE REVIEW OF SEPARATIONS.

These Comments represent the view of Smithville Telephone Company, which serves 30,000 subscribers in 12 exchanges in very rural areas of Southern Indiana. Smithville is a rate-of-return carrier which participates in NECA's Common Line and Traffic Sensitive Pools.

Smithville has reviewed the State Members' Report on Comprehensive Review of Separations and has the following Comments regarding this document.

Confiscation Liability

The Report concludes that separations is needed to satisfy legal concerns regarding confiscation. Smithville agrees with this position and adds that, for rate-of-return companies, separations may also be used for earnings reviews and oversight.

Effects of New Technology on the Separations Process

The Report concludes that the implementation of new technologies may require new separations categories and new allocation factors. While many might argue that separations needs to be technology neutral, this may not be possible if separations is to accurately address cost allocations. For example, the cost drivers associated with a wireless loop are very different than the costs associated with traditional copper loops. The costs of a copper loop are highly non-traffic sensitive. A loop in service can only be used by a single subscriber and cannot be reassigned to other subscribers as needed. However, the costs of wireless loops are highly traffic sensitive, in that the base unit can be used to serve whatever wireless customer is in the area and asking for service.

A fact that many overlook is that separations is already technology specific. For example, operators which provided call recording and call routing functions are categorized and allocated differently than digital central office equipment which performs the same call recording and call routing functions.

Difficulties in Tracking Usage

As the Report points out, however, the ability to categorize new technology may be impractical if there is no way to track or measure jurisdictional usage. For example, it is relatively easy to separately identify and categorize frame relay and/or ATM equipment, but it is not at all easy to track and measure the jurisdictional nature of the packets switched by such equipment. Procedures used to measure jurisdictionality of voice switching equipment will not work for packet switched services.

Effects of End-user Charges

The Report takes the position that the implementation of Federal End User Charges has undermined the original intention of separations. Smithville agrees with this conclusion. In the early days of separations when the debate was whether separations ought to be station to station or board to board, the real issue was whether toll rates ought to pay a portion of the loop costs (and how much). In *Smith vs. Illinois Bell*, the question was posed as an allocation of costs between the state and interstate jurisdiction. However, the real issue addressed in that decision was whether a portion of loop costs should be allocated to interstate *toll* (which was the only interstate service at the time).

Current separations and access rules, allocate a portion of non-traffic sensitive costs to the interstate jurisdiction, develop an end user charge, and charge that to the end-user on a flat rated basis. It is difficult to see how this process is any different than allocating the entire loop cost to the state jurisdiction and recovering such costs through flat rated local service rates. Smithville believes the FCC needs to consider the impact of section 254(k) on these practices. Section 254(k) requires that the services included in the definition of universal service bear no more than a reasonable portion of joint and common costs. If the interstate portion of the common loop cost is recovered in such a way as to be effectively completely recovered from services included in the definition of universal service, the practice may violate Section 254(k).

Modified Structure

The Report concludes that while there is a continuing need for separations, this does not necessarily require that a particular form of separations be used. For example, the requirement for separations could be satisfied by;

1) continuing the existing separations rules,
2) accepting USTA's proposal to freeze separations allocators,
3) accepting GTE's and US West's recommendations that all costs be allocated to the state jurisdiction, or
4) developing new separations procedures more consistent with competition and new technology.

Smithville agrees that a variety of approaches to separations reform will meet the legal need to address confiscation.

Smithville would point out, however, that there are a number of goals and objectives that, above and beyond satisfying the legal need related to confiscation, separations reform should strive to meet. These would include:

1) Conformance to Federal law, such as Federal Universal Service Funding requirements contained in section 254 of the Communications Act of 1934, as modified.

2) Consistency with cost causation principles such that costs are allocated in a manner that recognizes the nature of the costs. This would include costs which vary with: minutes of use; messages; packets; trunks; and common costs.
3) Facilitate the development of access rates, starting with accounting rules in Part 32, continuing with deregulated cost allocation rules in Part 64, and access rate element rules in Part 69. Smithville notes that for price cap carriers rate development is no longer associated with the underlying costs. However, for rate of return carriers development of access rates is directly associated with accounting, deregulated allocations, and separations procedures.
4) Separations should accurately allocate costs between jurisdictions.
5) Separations should be as administratively simple as possible, considering the need for accuracy.
6) Separations needs to match jurisdictional allocations, rate making and cost recovery.
7) Separations needs to accommodate new technologies such as packet switching, wideband services and wireless services.

The Report suggests consideration of separations procedures which assigned all costs to the state jurisdiction. Although this might be a reasonable approach for large companies, this would deny rate-of-return carriers the nationwide opportunity to pool costs with other small carriers. The advantages of pooling include reduction of administrative costs, nationwide averaging of access costs and reduction of the risks associated with filing interstate tariffs for companies serving small geographical areas. This is in accordance with Section 254(g), which states, "***the Commission shall adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas.***"

Difficult Separations Issues

Many of the truly difficult separations issues that we face today are the result of FCC Orders. Following are several examples of the difficulties created by the FCC:

1) There is an increasing allocation of traffic sensitive costs to the state jurisdiction directly as a result of FCC requirements that Internet usage is to be assigned to the intrastate jurisdiction. The FCC should face up to its responsibility, and not only label Internet traffic as interstate but treat it as interstate.
2) Provision of Unbundled Network Elements (UNE) by Incumbent LECs requires unusual treatment in separations. UNE rates are implemented by State Commissions under costing rules issued by the FCC. Since the rates are implemented by the State Commission, the revenues and costs should also be assigned to the state jurisdiction. However, since the Incumbent LECs are not able to recover the costs

associated with the provision of UNEs, due to FCC pricing rules, the difference between UNE revenue and costs should be assigned to the interstate jurisdiction and recovered through access.

3) The FCC has concluded that costs associated with the provision of Local Number Portability (LNP) should be excluded from separations. It is not clear how LNP costs are to be excluded from separations and there are many options as evidenced by the recent RBOC LNP tariff filings. The best way to handle costs associated with LNP would be to assign all such embedded costs to the interstate jurisdiction, and recover such costs through interstate tariffs. This would match the costs and revenues in the same jurisdiction.

4) The separations treatment of Other Billing and Collection (OB&C) costs goes against basic separations principles. OB&C costs are associated with preparing and mailing customer bills. As such, these costs represent common costs associated with serving subscribers. While it may be reasonable to assign a third of such common costs to the interstate jurisdiction, it is not reasonable to assign most of these costs to the Billing and Collection category (28% out of the 33% assigned to interstate are allocated to Billing and Collection). The FCC should recognize these are the interstate portion of the common costs associated with providing the subscriber loop and assign such costs to Common Line.

5) Separations categorizes and allocates remote switches very differently than it does subscriber carrier equipment. Under FCC rules, if a piece of equipment has stand-alone capability it is a remote switch, is considered traffic sensitive, and is included in COE category 3. However, if that same piece of equipment does not have emergency stand-alone capability, it becomes subscriber carrier, is included in COE category 4.13, and is non-traffic sensitive. Rational separations procedures would treat these network components very similarly.

The Report concludes that the network is becoming more non-traffic sensitive which means fewer costs are assigned based on use and more costs are assigned based on common cost allocators. And, there is no economic model which can "correctly" allocate common costs among the services benefited. Therefore, Smithville agrees with the Report's assessment that the increasing amount of non-traffic sensitive costs results in separations becoming more arbitrary.

The Report identifies loop costs as "common" costs. Smithville agrees with this definition, and points out that the Indiana Utility Regulatory Commission (IURC) has issued an order identifying loop costs as common costs. The importance of this classification cannot be overstated. Under section 254(k) of the Communications Act, the services included in the definition of universal service shall bear no more than a reasonable share of the joint and common costs of facilities used to provide those services. Therefore, the increasing portion of the network which is non-traffic sensitive requires a greater portion of the costs to be recovered through services not included in the definition of universal service. This would include regulated services which use the loop, such as ASDL and interexchange access, as well as any unregulated services which might use the local loop.

Transition Requirements

Smithville appreciates the recommendation of the Report regarding transition requirements. The FCC should recognize that changes in the separations rules will impact incumbent LECs in all 50 states. Each of the states will be required to investigate the impacts of separations changes on the Incumbent LECs in its state and to implement intrastate rate changes associated with the impacts of separations rules revisions.

The Report recommends consideration of a three-year rolling average of cost allocation factors used in separations. Smithville opposes this suggestion because the main reason for this requirement is to ameliorate the impact of Internet services on jurisdictional separations factors. As described earlier, Smithville recommends that the FCC address the Internet problem directly rather than implementing procedures, such as three-year rolling averages, which are intended to compensate for the impacts of the Internet. Smithville's recommendation to directly address the Internet issue would be consistent with Section 254(e) of the Federal Communications Act which requires that, "*Any such support should be explicit and sufficient to achieve the purposes of this* *section."* The assignment of Internet costs to the state jurisdiction has the effect of creating an implicit subsidy to Internet services.

The Report suggests that the use of three-year or rolling averages should apply to all non-average schedule Incumbent LECs, in order to avoid the requirement of bifurcated procedures for large and small Incumbent LECs. Smithville respectfully recommends that large and small Incumbent LECs are so different and are regulated so differently that bifurcated procedures cannot and should not be avoided.

Summary

Smithville Telephone Company believes the Report identifies a number of issues which are very relevant to separations reform. Smithville recommends that the FCC address the separations issues identified in its Comments in this proceeding.

Respectfully Submitted,

SMITHVILLE TELEPHONE COMPANY

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