

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 96-61

In the Matter of)
)
Policy and Rules Concerning the Interstate,)
Interexchange Marketplace)
)
Implementation of Section 254(g) of the)
Communications Act of 1934,)
as Amended)

**REPLY COMMENTS OF
SBC WIRELESS INC.**

SBC Wireless Inc. files these Reply Comments urging the Commission to exercise restraint by not arbitrarily imposing rate integration on all aspects of wireless service. The positions taken by the parties filing Comments in this proceeding are not surprising. The carriers oppose expanding CMRS rate integration because of the diminishing effect it will have on competition and the carriers' ability to distinguish themselves through innovative rate plans and calling scopes, whereas the States of Alaska and Hawaii express their concern that their citizens not be discriminated against. As SBC Wireless and other carriers demonstrate, the absence of regulation as to rates and calling scopes in the CMRS market has resulted in robust competition characterized by lower rates, larger calling scopes and various one-rate plans.¹ The State of Hawaii agrees that the Commission "should encourage the widespread availability of new attractive rate structures for interstate, interexchange CMRS services".² Hawaii also notes, however, that the Commission should not take any action in this proceeding that would undermine the universal service goals of rate integration or permit rate discrimination against off-shore points".³ Hawaii's concern is that CMRS providers "not use this proceeding to circumvent their rate integration obligations" to the detriment of their citizens.⁴ Likewise, the State of Alaska notes "its willingness to have the

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¹ See, e.g., Comments of SBC Wireless, pp. 3-5.

² Comments of the State of Hawaii, p. 3.

³ Id.

⁴ Id.

Commission clarify or simplify the manner in which the requirement for rate integration is applied, as long as the statutory requirement is implemented in a manner that does not weaken the protections Congress intended to provide consumers in distant or less populated states.”⁵

SBC Wireless continues to believe that competition in the CMRS market alone is sufficient to protect against the discrimination the 1976 landline long-distance era rate integration rules are designed to prevent. Such competition, when combined with the current CMRS rate integration rules, is more than sufficient to address the States’ concern that their citizens will not be discriminated against.

Competition in the CMRS market place provides the best assurance that offshore customers are not going to be subject to discriminatory treatment. Customers in the offshore markets and customers wishing to call such markets have a number of options if they believe that the integrated rates of a particular provider under the current rules are unreasonable. The most obvious option is to choose a wireless carrier that offers a better plan. In most markets, there are three to six facilities-based cellular/PCS providers to choose from offering various plans in competition with each other. The customer’s calling needs, be they national or merely local in scope, can thus be matched to the carrier offering the best plan to suit such needs. If the customer is still concerned that the toll charge rate is unreasonable (if not on a one-rate plan) the option of placing such calls via calling card or prepaid long - distance card always exists. The presence of competitors and various options dissuade carriers from imposing unreasonably high rates because of the difficulty in attracting customers willing to pay such rates. This is true for each component of a wireless provider’s rate structure, including access rates, airtime rates, roaming and long-distance rates. The wireless price battles are fought primarily at the local level to the benefit of the consumer. Such competition has led to the development of various plans and packages combining such components as wide area calling plans, one-rate plans and flat rate roaming packages—all to the benefit of the consumer.

The lack of regulation in the past has resulted in the creation of innovations such as wide area and calling plans. Any suggestions of imposing new regulatory mandates on these innovations should be viewed in a cautious manner. While the concerns of the States of Alaska and Hawaii in not having their

⁵ Comments of the State of Alaska, pp. 2-3.

citizens discriminated against are understandable, the competitive CMRS market and the present CMRS rate integration rules provide more than enough assurance. Imposing regulatory mandates and obligations on the very elements and innovations that CMRS carriers use to distinguish themselves and attract customers is not only unwise but also unnecessary.

The present rate integration rules provide that calls to Hawaii and Alaska must be integrated into the rate structure for long-distance charged calls within the mainland. The perceived fear behind any argument that CMRS rate integration should be extended to wide area calling plans (where additional per minute long-distance charges are not assessed if to a certain area) seemingly is that a carrier might offer such a plan that includes only the mainland—thus arguably circumventing the rules. Under such an argument, presumably the carrier would introduce the plan so as to be able to charge a bit more than it otherwise would be able to charge when its customers called Hawaii or Alaska. Reality is the best check against perceived what-ifs. Despite the offering of various wide area calling by numerous carriers today, no such discriminatory treatment has been cited. As SBC Wireless noted, its wide area calling plans and one-rate plans do not single out Hawaii or Alaska for disparate treatment. Expansion of the CMRS rate integration rules across affiliates, wide area calling plans, one-rate plans and roaming is simply not required to provide assurance that such discrimination will not occur.

Further, a practical problem with attempting to apply rate integration to, and thus requiring the unbundling of, wide area or one-rate calling plans is that it requires the grafting of landline concepts onto a wireless environment that does not operate in terms of landline exchanges. For example, Hawaii contends that the Commission should consider carefully any proposal that would allow “CMRS providers to classify as intraexchange calls that, **by any reasonable standard**, would otherwise be considered interexchange”⁶ (bold emphasis added). What determines a reasonable standard? For example, if a cellular carrier includes a contiguous area in a neighboring state in its wide area calling plan, then by a reasonable standard is that “interexchange” if the carrier does not hold the license in the contiguous area? What if the reason it includes such an area is because its PCS competitor serves both areas under its MTA license—does the reasonableness standard change? What if the cellular carrier’s license crosses MTA

boundaries such as Illinois RSA 4—does the reasonableness standard again change? Given the simple fact that wireless licenses overlap and do not coincide with each other or with landline exchanges or state boundaries, it is arbitrary and capricious to attempt to merely graft landline concepts onto wireless. Similarly, the fact that CMRS carriers may use landline facilities that may be classified as interexchange in the landline scenario adds nothing to the debate.⁷ A CMRS provider's licensed service area contains numerous landline exchanges and many times is not limited by state boundaries. Does the fact that the wireless carrier decides to connect its cell sites to its switching center using landline facilities suddenly render such calls interstate or interexchange because of the landline configuration? What if the carrier decided to connect the cell sites to the switching center using microwave hops rather than landline facilities—would the result be different? What if the CMRS carrier decided to connect licensed service areas across two states—should the result be different if connected by microwave rather than landline facilities? The Commission should not attempt to hammer a square peg into a round hole—especially when competition is likely the one to be hit the hardest by the unbundling of wide area calling plans based on landline concepts. The Commission should not further expand the CMRS rate integration rules to wide area calling plans.

The concerns of Alaska and Hawaii are adequately addressed by the competitive nature of the CMRS market and the current CMRS rate integration rules. Additional regulation is not necessary and

⁶ Comments of Hawaii, p. 4.

⁷ See, Comments of Hawaii, p. 5.

could have a debilitating effect on competition. The Commission should refrain from further expanding the applicability of CMRS rate integration.

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CERTIFICATE OF SERVICE

I, Bruce E. Beard, an attorney for SBC Wireless, Inc., do hereby certify that copies of the foregoing Reply Comments of Southwestern Bell Mobile Systems, Inc. were served on the 28th day of June, 1999, by first class U.S. mail, postage prepaid, and/or hand delivered, to the following:

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