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TDS TELECOM

Government and Regulatory Affairs

July 13, 1999

Ex Parte

William F. Caton
Acting Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: CC Docket 80-286, In the Matter of Jurisdictional Separations Reform and Referral to the Federal-State Joint Board

Dear Mr. Caton:

On July 8, 1999, TDS TELECOM mailed the attached documents to the state members of the Separations Federal-State Joint Board – Commissioner David Rolka, Commissioner Joan Smith, Commissioner Thomas Welch, Peter Bluhm, Sandra Ibaugh, Jonathon Lakritz, Samuel Loudenslager, Scott Potter, Jeffery Richter, Joel Shifman, Fred Sistarenik, and Cynthia Van Landuyt. In the letter, TDS TELECOM indicated that representatives from TDS TELECOM (David Darwin, Paul Pederson, Kathy Barnekow, and Bob DeBroux) would like discuss our positions on these separations issues with the state Joint Board members during the upcoming summer NARUC meetings in San Francisco from July 18-21, 1999.

Enclosed herewith are the documents provided to the state members of the Separations Joint Board on July 8, 1999. I have enclosed three copies of this notice and attachments in accordance with sections 1.1206(a)(1) and 1.1206(a)(2) of the Commission's rules. Please date stamp and return the provided copy in the enclosed self-addressed, stamped envelope.

Respectfully submitted,

Jean M. Pauk

Jean Pauk
Manager
Policy Development

Attachments

cc: (without attachments)

Commissioner David W. Rolka	Samuel Loudenslager
Commissioner Joan H. Smith	Scott Potter
Commissioner Thomas L. Welch	Jeffery J. Richter
Peter Bluhm	Joel Shifman
Sandra S. Ibaugh	Fred Sistarenik
Jonathon Lakritz	Cynthia Van Landuyt

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TDS TELECOM®

RECEIVED

JUL 1 4 1999

Federal Communications Commission
Office of Secretary

Government and Regulatory Affairs

July 8, 1999

The Honorable Thomas L. Welch
Chairman
Maine Public Utilities Commission
State House Station 18
242 State Street
Augusta, ME 04333-0018

Dear Commissioner Welch:

TDS TELECOM, which operates 105 rural local exchange carriers in 28 states, shares many of the concerns expressed recently by the state members of the Federal State Joint Board on Separations in its June 17, 1999 letter to the FCC. Given these concerns and other pending dockets at the FCC, we believe that a freeze of the separations factors should be implemented immediately.

TDS TELECOM feels it is imperative the Joint Board adopt a solution for Internet traffic that will allow companies to recover their costs associated with carrying the traffic. While the FCC has exerted its regulatory authority and ruled that Internet traffic is largely interstate, it has seemingly left the responsibility for the recovery of the Internet costs in the intrastate jurisdiction. TDS TELECOM estimates that 18% of its current local traffic is Internet related. This percentage is growing rapidly. Accordingly, TDS TELECOM has seen its Interstate DEM decrease for many of its companies, resulting in greater costs being shifted to the intrastate jurisdiction for recovery. Please see the attachment for estimated impacts for a sample of TDS TELECOM companies.

Therefore, we feel that an immediate freeze of the separations factors is necessary to prevent the continued unwarranted shift of costs to the intrastate jurisdiction. A freeze of the factors based on 1994-1996 traffic, which was prior to significant Internet traffic, would provide simplicity, stability and predictability to the separations process during a time of increasing turbulence in the industry. The freeze would allow the FCC to address and resolve many of the other pending proceedings, such as universal service reform, access reform and local competition issues, before making any permanent changes to the

process. This would help ensure continued availability of high-quality, advanced services at comparable rates for rural consumers. A rolling average freeze would not address the concerns of small LECs. It would allow costs to continue to shift into the intrastate jurisdiction for recovery, and therefore dampen the enthusiasm of small companies to deploy Internet.

TDS TELECOM applauds the state members' continued efforts to address these important and unresolved separations issues with the FCC. We will have representatives attending the upcoming NARUC meetings in San Francisco. In addition to myself, Bob DeBroux, Paul Pederson, and Kathy Barnekow will be attending. We would like to discuss the attached information and our positions on the pending separations issues with you in greater detail during NARUC. Mr. Pederson has also been asked to participate on the staff's panel on Internet.

The pending separations issues are of great concern to TDS TELECOM and we are eager to work with the state members of the Federal State Joint Board to resolve them. Please feel free to contact me at 608-664-4170 or any of the TDS TELECOM representatives (phone numbers below) to set up a time to meet during NARUC or to discuss any questions or thoughts you may have on the information provided.

Sincerely,

David A. Darwin
Sr. Vice President, Government & Regulatory Affairs

Attachments

cc: Bob DeBroux (608) 664-4154
Kathy Barnekow (608) 664-4175
Paul Pederson (608) 664-4180
Mike Reed (802) 485-2924

TDS TELECOM Positions on Separations Reform
Separations Joint Board Ex Parte
July 1999

Separations continue to be necessary, as long as a dual regulatory system exists.

- Regulatory ratemaking responsibility continues to be divided between state and federal regulators.
- State and interstate services are provided using the same network which necessitates separating the costs the network between the interstate and intrastate jurisdictions.
- Separations is necessary to prevent unconstitutional confiscation by state or federal regulatory action.
- Jurisdictional separations is inherently arbitrary. There is not an economically correct answer on how to divide "interstate" costs from "intrastate" costs. Federal courts have thus held that separations can and inevitably will involve public policy goals, such as preventing excessive costs from falling into the intrastate jurisdiction. This public policy goal must still be met to ensure comparable services at comparable rates in rural and urban areas.

A solution for Internet traffic must be found which will allow companies to recover their costs associated with the traffic.

- Changes in the technology and the content of communications make it more difficult to apply usage-based measurements to allocate "traffic sensitive" costs between jurisdictions. The classification of Internet traffic as intrastate, for separations purposes, is driving down the relative interstate minutes of use, shifting more traffic sensitive costs to the intrastate jurisdiction.
- As the state members of the Separations Joint Board have pointed out, jurisdiction of traffic should dictate how costs and revenues are accounted for. If the traffic is interstate, then the revenues and costs should also be interstate. Jurisdictional responsibility for cost recovery cannot be divorced from regulatory authority to regulate rates.
- Internet traffic creates additional network traffic and additional costs. Many companies are facing increasing amounts of traffic with holding times that exceed the design of the network.
- TDS TELECOM currently estimates that 18% of its local traffic is Internet and it continues to increase.

An immediate freeze of the separation factors based upon 1994-1996 average allocation levels is needed to prevent unwarranted shift of costs to the intrastate jurisdiction.

- A freeze will stop the unlawful requirement for <u>states</u> to provide recovery for <u>interstate</u> costs.
- A freeze would help the FCC achieve its goals of simplicity, stability, and predictability.
- Using factors developed based on 1994-1996 traffic is appropriate since this time period was prior to significant Internet traffic.
- Freezing separations factors will also help preserve the jurisdictional division of costs that is consistent with interim universal service provisions for rural telephone companies.
- A freeze would also allow the FCC to resolve universal service, access reform, and local competition issues before making changes to the separations process.
- Internet usage is difficult to identify and measure. With a freeze, the traffic would not have to be measured for separations purposes.

Annual Decreases in Intrastate Revenue Requirement Per Access Line

Company ID	State	Impact to State if factors are Frozen	Impact to State if Internet is reclassified as Interstate	Impact to State if Internet is Excluded from both jurisdictions
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3	Wisconsin	$5.53	$28.77	$3.13
4	Arkansas	($2.26)	$19.79	$1.76
5	Tennessee	($0.68)	$12.41	$3.74
6	Michigan	$1.35	$64.29	$17.21
7	Wisconsin	$1.71	$31.68	$17.51
8	Alabama	($3.83)	$66.16	$40.41
Totals		$0.12	$24.23	$5.88

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TDS TELECOM®

Government and Regulatory Affairs

July 8, 1999

The Honorable David W. Rolka
Commissioner
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Dear Commissioner Rolka:

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Sincerely,

David A. Darwin
Sr. Vice President, Government & Regulatory Affairs

Attachments

cc: Bob DeBroux (608) 664-4154
Kathy Barnekow (608) 664-4175
Paul Pederson (608) 664-4180
John Feehan (423) 671-4754

TDS TELECOM Positions on Separations Reform
Separations Joint Board Ex Parte
July 1999

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- As the state members of the Separations Joint Board have pointed out, jurisdiction of traffic should dictate how costs and revenues are accounted for. If the traffic is interstate, then the revenues and costs should also be interstate. Jurisdictional responsibility for cost recovery cannot be divorced from regulatory authority to regulate rates.

- Internet traffic creates additional network traffic and additional costs. Many companies are facing increasing amounts of traffic with holding times that exceed the design of the network.

- TDS TELECOM currently estimates that 18% of its local traffic is Internet and it continues to increase.

An immediate freeze of the separation factors based upon 1994-1996 average allocation levels is needed to prevent unwarranted shift of costs to the intrastate jurisdiction.

- A freeze will stop the unlawful requirement for states to provide recovery for interstate costs.

- A freeze would help the FCC achieve its goals of simplicity, stability, and predictability.

- Using factors developed based on 1994-1996 traffic is appropriate since this time period was prior to significant Internet traffic.

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TDS TELECOM

Government and Regulatory Affairs

July 8, 1999

The Honorable Joan H. Smith
Commissioner
Oregon Public Utility Commission
550 Capitol Street NE
Salem, OR 97310

Dear Commissioner Smith:

TDS TELECOM, which operates 105 rural local exchange carriers in 28 states, shares many of the concerns expressed recently by the state members of the Federal State Joint Board on Separations in its June 17, 1999 letter to the FCC. Given these concerns and other pending dockets at the FCC, we believe that a freeze of the separations factors should be implemented immediately.

TDS TELECOM feels it is imperative the Joint Board adopt a solution for Internet traffic that will allow companies to recover their costs associated with carrying the traffic. While the FCC has exerted its regulatory authority and ruled that Internet traffic is largely interstate, it has seemingly left the responsibility for the recovery of the Internet costs in the intrastate jurisdiction. TDS TELECOM estimates that 18% of its current local traffic is Internet related. This percentage is growing rapidly. Accordingly, TDS TELECOM has seen its Interstate DEM decrease for many of its companies, resulting in greater costs being shifted to the intrastate jurisdiction for recovery. Please see the attachment for estimated impacts for a sample of TDS TELECOM companies.

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Sincerely,

David A. Darwin
Sr. Vice President, Government & Regulatory Affairs

Attachments

cc: Bob DeBroux (608) 664-4154
Kathy Barnekow (608) 664-4175
Paul Pederson (608) 664-4180
Gail Long (503) 656-8399

TDS TELECOM Positions on Separations Reform
Separations Joint Board Ex Parte
July 1999

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TDS TELECOM®

Government and Regulatory Affairs

July 8, 1999

Ms. Sandra S. Ibaugh
Assistant Chief Engineer
Indiana Utility Regulatory Commission
302 W. Washinton #E 306
Indianapolis, IN 46204

Dear Ms. Ibaugh:

TDS TELECOM, which operates 105 rural local exchange carriers in 28 states, shares many of the concerns expressed recently by the state members of the Federal State Joint Board on Separations in its June 17, 1999 letter to the FCC. Given these concerns and other pending dockets at the FCC, we believe that a freeze of the separations factors should be implemented immediately.

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Sincerely,

David A. Darwin
Sr. Vice President, Government & Regulatory Affairs

Attachments

cc: Bob DeBroux (608) 664-4154
Kathy Barnekow (608) 664-4175
Paul Pederson (608) 664-4180
Mitch Proctor (765) 522-0222

TDS TELECOM Positions on Separations Reform
Separations Joint Board Ex Parte
July 1999

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TDS TELECOM®

Government and Regulatory Affairs

July 8, 1999

Mr. Peter Bluhm
Vermont Public Service Board
Mail Drawer 20
112 State Street
Montpelier, VT 05602-2701

Dear Mr. Bluhm:

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- Jurisdictional separations is inherently arbitrary. There is not an economically correct answer on how to divide "interstate" costs from "intrastate" costs. Federal courts have thus held that separations can and inevitably will involve public policy goals, such as preventing excessive costs from falling into the intrastate jurisdiction. This public policy goal must still be met to ensure comparable services at comparable rates in rural and urban areas.

A solution for Internet traffic must be found which will allow companies to recover their costs associated with the traffic.

- Changes in the technology and the content of communications make it more difficult to apply usage-based measurements to allocate "traffic sensitive" costs between jurisdictions. The classification of Internet traffic as intrastate, for separations purposes, is driving down the relative interstate minutes of use, shifting more traffic sensitive costs to the intrastate jurisdiction.
- As the state members of the Separations Joint Board have pointed out, jurisdiction of traffic should dictate how costs and revenues are accounted for. If the traffic is interstate, then the revenues and costs should also be interstate. Jurisdictional responsibility for cost recovery cannot be divorced from regulatory authority to regulate rates.
- Internet traffic creates additional network traffic and additional costs. Many companies are facing increasing amounts of traffic with holding times that exceed the design of the network.
- TDS TELECOM currently estimates that 18% of its local traffic is Internet and it continues to increase.

An immediate freeze of the separation factors based upon 1994-1996 average allocation levels is needed to prevent unwarranted shift of costs to the intrastate jurisdiction.

- A freeze will stop the unlawful requirement for states to provide recovery for interstate costs.
- A freeze would help the FCC achieve its goals of simplicity, stability, and predictability.
- Using factors developed based on 1994-1996 traffic is appropriate since this time period was prior to significant Internet traffic.
- Freezing separations factors will also help preserve the jurisdictional division of costs that is consistent with interim universal service provisions for rural telephone companies.
- A freeze would also allow the FCC to resolve universal service, access reform, and local competition issues before making changes to the separations process.
- Internet usage is difficult to identify and measure. With a freeze, the traffic would not have to be measured for separations purposes.

Annual Decreases in
Intrastate Revenue Requirement
Per Access Line

Company ID	State	Impact to State if factors are Frozen	Impact to State if Internet is reclassified as Interstate	Impact to State if Internet is Excluded from both jurisdictions
1	Georgia	$1.51	$19.99	$5.16
2	Indiana	($0.16)	$52.93	$9.02
3	Wisconsin	$5.53	$28.77	$3.16
4	Arkansas	($2.26)	$19.79	$1.76
5	Tennessee	($0.68)	$12.41	$3.74
6	Michigan	$1.35	$64.29	$17.21
7	Wisconsin	$1.71	$31.68	$17.51
8	Alabama	($3.83)	$66.16	$40.41
Totals		$0.12	$24.23	$5.88

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FAX: 608-664-4184

TDS TELECOM

Government and Regulatory Affairs

July 8, 1999

Mr. Samuel Loudenslager
Arkansas Public Service Commission
1000 Center Building
PO Box 400
Little Rock, AR 72201

Dear Mr. Loudenslager:

TDS TELECOM, which operates 105 rural local exchange carriers in 28 states, shares many of the concerns expressed recently by the state members of the Federal State Joint Board on Separations in its June 17, 1999 letter to the FCC. Given these concerns and other pending dockets at the FCC, we believe that a freeze of the separations factors should be implemented immediately.

TDS TELECOM feels it is imperative the Joint Board adopt a solution for Internet traffic that will allow companies to recover their costs associated with carrying the traffic. While the FCC has exerted its regulatory authority and ruled that Internet traffic is largely interstate, it has seemingly left the responsibility for the recovery of the Internet costs in the intrastate jurisdiction. TDS TELECOM estimates that 18% of its current local traffic is Internet related. This percentage is growing rapidly. Accordingly, TDS TELECOM has seen its Interstate DEM decrease for many of its companies, resulting in greater costs being shifted to the intrastate jurisdiction for recovery. Please see the attachment for estimated impacts for a sample of TDS TELECOM companies.

Therefore, we feel that an immediate freeze of the separations factors is necessary to prevent the continued unwarranted shift of costs to the intrastate jurisdiction. A freeze of the factors based on 1994-1996 traffic, which was prior to significant Internet traffic, would provide simplicity, stability and predictability to the separations process during a time of increasing turbulence in the industry. The freeze would allow the FCC to address and resolve many of the other pending proceedings, such as universal service reform, access reform and local competition issues, before making any permanent changes to the

process. This would help ensure continued availability of high-quality, advanced services at comparable rates for rural consumers. A rolling average freeze would not address the concerns of small LECs. It would allow costs to continue to shift into the intrastate jurisdiction for recovery, and therefore dampen the enthusiasm of small companies to deploy Internet.

TDS TELECOM applauds the state members' continued efforts to address these important and unresolved separations issues with the FCC. We will have representatives attending the upcoming NARUC meetings in San Francisco. In addition to myself, Bob DeBroux, Paul Pederson, and Kathy Barnekow will be attending. We would like to discuss the attached information and our positions on the pending separations issues with you in greater detail during NARUC. Mr. Pederson has also been asked to participate on the staff's panel on Internet.

The pending separations issues are of great concern to TDS TELECOM and we are eager to work with the state members of the Federal State Joint Board to resolve them. Please feel free to contact me at 608-664-4170 or any of the TDS TELECOM representatives (phone numbers below) to set up a time to meet during NARUC or to discuss any questions or thoughts you may have on the information provided.

Sincerely,

David A. Darwin
Sr. Vice President, Government & Regulatory Affairs

Attachments

cc: Bob DeBroux (608) 664-4154
Kathy Barnekow (608) 664-4175
Paul Pederson (608) 664-4180
John Zeiler (405) 390-8992

TDS TELECOM Positions on Separations Reform
Separations Joint Board Ex Parte
July 1999

Separations continue to be necessary, as long as a dual regulatory system exists.

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