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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

In the Matter of )  
 )  
Truth-in-Billing )  
and )  
Billing Format )

CC Docket No. 98-170

Petition for Temporary, Limited Waiver

The Concord Telephone Company ("CTC" or the "Company"),<sup>1</sup> by counsel, hereby seeks temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.<sup>2</sup> Specifically, CTC seeks temporary waiver of the requirements of Section 64.2401(a)(2) regarding separating charges by service provider (the "TIB Separate Provider Requirement") and Section 64.2401(b) regarding description of charges (the "TIB Description Requirement")(collectively, the "TIB Requirements").<sup>3</sup> CTC seeks this waiver until April 1, 2000. CTC, a member of the United

<sup>1</sup> Attachment A is the declaration of Jerry L. Weikle, Manager - Regulatory Affairs of CTC.

<sup>2</sup> In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999)("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

<sup>3</sup> In pertinent part, 47 C.F.R. § 64.2401(a)(2) states that "[w]here charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider. . . ." 47 C.F.R. § 64.2401(b), in turn, states that:

Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in

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States Telecom Association ("USTA"), recognizes that a pending Petition filed by USTA seeks similar relief for USTA member companies. Accordingly, in the event that action on the USTA Petition does not grant the extent of the relief requested herein, CTC requests a waiver of 47 C.F.R. §§ 64.2401(a)(2) and (b) until April 1, 2000, the date that the Commission has previously established for implementing certain other TIB requirements.<sup>4</sup> Until the waiver requested expires, CTC will continue to work diligently on the software billing system changes necessary to comply with the TIB Requirements, and, even after the waiver expires, its customer representatives will continue to provide assistance to customers with questions concerning charges of particular carriers and for particular services when such inquiries are made.

#### **I. Background**

CTC provides exchange and exchange access services to approximately 115,000 lines in North Carolina. The Company is a rural telephone company under the Communications Act of 1934 as amended. The Company utilizes a customer service and billing software system developed by IBM ("Integrated Customer Management System" or "ICMS") which was cutover in September, 1998. Beginning with the October, 1998 end user billing cycles, CTC has used the ICMS system to generate its customer's bills. Since that time, only two (2) CTC customers

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(Footnote Continued from Previous Page)

content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

<sup>4</sup> See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

have filed with a state agency regarding the clarity of CTC's bills (both of which have been resolved by the Company).

The Company has been actively involved in addressing Year 2000 issues for all of its computer-based systems. After release by the FCC of its TIB Order, the Company, on June 1, 1999, contacted IBM to discuss the need for any ICMS software updates or modifications necessary to ensure CTC's compliance with the FCC's TIB requirements. Arising from its discussions with IBM, it is now clear that CTC will not be able to implement either of the TIB Requirements by the November 12, 1999 effective date.<sup>5</sup> CTC anticipates, however, that it will be able to comply with the TIB Requirements by April 1, 2000.

The practical problems and billing software system limitations confronting CTC associated with implementing the TIB rules make compliance by November 12, 1999 infeasible. With respect to the TIB Separate Provider Requirement, CTC's ICMS system currently aggregates all flat-rated recurring and non-recurring charges in a separate section on its bill. Because CTC provides "1+" billing and collection services for both its affiliate (CTC Long Distance Services, Inc.) and AT&T, these carriers' flat-rated recurring charges (e.g., AT&T's universal service connectivity charge) are printed in the same section of the bill as the flat-rated recurring and non-recurring charges for local and other services offered by CTC. CTC notes, however, that these charges are, in most instances, labeled as another carrier's charge and/or as the carrier's description of its service offering. CTC has only recently been informed by IBM of the necessary steps that would be required for CTC to take to modify the ICMS system in

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<sup>5</sup> See id.

order for that system to sort recurring charges by service provider and place those charges in that service provider's portion of the bill, thereby complying with the TIB Separate Provider Requirement.<sup>6</sup> CTC does not believe it can accomplish these software modifications nor successfully test such modifications by November 12, 1999. CTC believes, however, that it can accomplish such activities by April 1, 2000.

With respect to the need for an interim waiver of the TIB Description Requirement, the service descriptions that are capable of being produced on CTC's end user bills by the ICMS system are based on its "service and equipment" ("S&E") codes. S&E codes are used by CTC as a short-hand description of the service that the customer selects.<sup>7</sup> CTC has over 4,200 S&E codes and is currently in the process of reviewing each service description that is printed on the bill arising from the use of a S&E code, and testing that description against the FCC's requirement that service descriptions must use "brief, clear, non-misleading, plain language. . . ." 47 C.F.R. § 64.2401(b). Based on its efforts to date, CTC has concluded that its ICMS software requires modification to expand the maximum number of characters that can be included in a printed description from thirty (30) to fifty (50) characters. By expanding the maximum filed length to fifty (50) characters, CTC believes that it will have sufficient flexibility to meet the FCC's TIB Service Description Requirement. As with the software modifications

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<sup>6</sup> See TIB Order at para. 31.

<sup>7</sup> S&E codes are similar to "USOC" codes. S&E codes, however, are developed by the Company based on its own needs, and implemented in the ICMS system to assist the Company in proper customer bill rendering and to allow CTC's customer services representatives to have uniform input of customer service selections. CTC understands that its use and development of S&E codes is typical for those companies that use S&E codes.

necessary to implement the TIB Separate Provider Requirement, CTC does not believe that the necessary ICMS software modifications and subsequent testing associated with complying with the TIB Service Description Requirement can be achieved by November 12, 1999. CTC does, however, anticipate compliance by April 1, 2000.

**II. Good Cause Exists for and the Public Interest will be Served by a Grant of this Limited Waiver**

Based on these facts and circumstances, CTC respectfully submits that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, CTC has made diligent efforts to comply with the TIB requirements effective November 12, 1999. However, CTC's compliance with the TIB Separate Provider Requirement and the TIB Service Description Requirement is not feasible by the November 12, 1999 effective date of these rules. Consistent with the implementation of other TIB-required billing software changes, CTC submits that compliance with the TIB Requirements should be possible by April 1, 2000. Accordingly, for the reasons stated, good cause exists for this waiver.<sup>8</sup>

Moreover, CTC respectfully submits that the public interest would be served by this action. First, the Commission has recognized the need to balance the implementation of new

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<sup>8</sup> "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

regulatory directives which affect computerized systems with on-going Year 2000 activities.<sup>9</sup> The software changes required in CTC's ICMS billing system clearly falls into this Commission-defined category. The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "'forestall' or 'roll back' disfavored regulations, or use this policy for purposes of competitive advantage"<sup>10</sup> are not applicable here. CTC is working toward TIB compliance and seeks only a limited extension of time consistent with the Commission-prescribed compliance date of certain other TIB Rules. Accordingly, there is no basis to conclude that CTC is attempting to "forestall" or "roll back" disfavored regulations. Moreover, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of CTC; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements with other carriers in a manner consistent with the status of overall TIB compliance efforts by CTC.

These conclusions are further corroborated by the public interest determination reached by the North Carolina Utilities Commission ("North Carolina Commission") with respect to efforts by North Carolina telecommunications companies to address Year 2000 issues.<sup>11</sup> In particular, the North Carolina Commission determined that the interest of North Carolina would be served by granting all North Carolina telecommunications utilities a moratorium on

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<sup>9</sup> See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

<sup>10</sup> Id. at para. 16.

<sup>11</sup> See In the Matter of The Year 2000 Computer Issue, Order Concerning a Year 2000 Transition Stabilization Period, Docket No. M-100, Sub 126, released June 25, 1999.

implementing network support systems from November 1, 1999 through February 1, 2000, while, at the same time, leaving open the possibility of additional time if demonstrated by a company.<sup>12</sup>

Second, the Commission has already determined that the April 1, 2000 date is appropriate for implementing other TIB rules.<sup>13</sup> Accordingly, the ability of CTC to continue to work toward the April 1, 2000 implementation date for all TIB rules would ensure efficiency and continuity in the enhancements to CTC's billing system capability without incurring unnecessary expenditures or jeopardizing Year 2000 compliance issues.

Finally, the underlying goal of the TIB Inquiry Contact Rule -- ability of a customer to identify carriers and charges -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, CTC will continue to provide customer service assistance regarding billing inquiries and questions. In this way, the goal of the TIB Separate Provider Requirement and TIB Service Description Requirement would be advanced. Waiver of the TIB Requirements as requested herein will merely maintain the status quo until such time as all of the TIB Requirements can be implemented efficiently by CTC, while effecting the goals of these requirements. Moreover, the impact on customers of this brief delay should be minimal in that CTC has needed to respond to only two (2) complaints filed by its customers with state agencies over the past year regarding its ICMS formatted bill and

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<sup>12</sup> See id. at 1-2.

<sup>13</sup> See n. 4, supra.

anticipates that the level of customer inquiry should not materially change over the time that the requested waiver is in place.

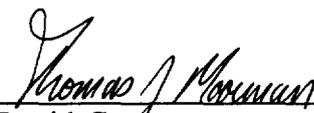
### **III. Conclusion**

Because CTC is technically incapable of complying with the TIB Separate Provider Requirement and the TIB Service Description Requirement by November 12, 1999, a grant of this request until April 1, 2000 will ensure that CTC can implement the Commission's TIB directives in an efficient manner while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of these TIB rules will not be frustrated by a grant of this request. Rather, such goals will be furthered by CTC as it continues to provide customer assistance and responsiveness when questions are received regarding the charges for services or the identity of service providers.

Accordingly, in the event that action on the USTA Petition does not grant the extent of the relief requested herein, CTC requests a waiver of the requirements of 47 C.F.R. § 64.2401(a)(2) and 47 C.F.R. § 64.2401(b) until April 1, 2000.

Respectfully submitted,

**The Concord Telephone Company**

By   
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October 27, 1999

DECLARATION OF JERRY L. WEIKLE  
Manager - Regulatory Affairs of The Concord Telephone Company

I, Jerry L. Weikle, Manager - Regulatory Affairs of The Concord Telephone Company ("CTC"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding CTC is true and accurate to the best of my knowledge, information, and belief.

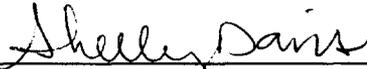
Date October 26, 1999

Jerry L. Weikle

Jerry L. Weikle  
Manager - Regulatory Affairs

**CERTIFICATE OF SERVICE**

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" was served on this 27th day of October, 1999 by hand delivery to the following parties:

  
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