

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

In the Matter of)	
)	
Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review for Local Exchange Carriers)	CC Docket No. 94-1
)	
Low-Volume Long Distance Users)	CC Docket No. 99-249
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	

**BELL ATALNTIC¹ REPLY COMMENTS ON THE COALITION FOR
AFFORDABLE LOCAL AND LONG DISTANCE SERVICE PROPOSAL**

The access charge reform proposal of the Coalition for Affordable Local and Long Distance Service (“CALLS”) accomplishes a trifecta of consumer benefits. First, it restructures access charges to spur investment in rural and residential services – markets that have lagged behind the competitive investment made to serve large business customers. Second, it benefits all consumers by facilitating dramatic cuts in per-minute long distance charges, while at the same time simplifying rates and reducing the confusion of multiple charges to recover various piece parts of the same common line costs. The vast majority of consumers, including low-volume callers, will see a lower total phone bill. Third, it benefits low-income consumers in particular by increasing the

¹ The Bell Atlantic telephone companies (“Bell Atlantic”) are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

Lifeline safety net, while at the same time limiting the burden placed on other consumers to support universal service.

I. Support For The CALLS Plan Is Widespread

The CALLS proposal would do all of this with the support of many of the major players that have been diametrically opposed in past access reform proceedings. In other words, as one analyst explained, it is a “very rare win-win-win compromise for long distance companies, the Bells and regulators.” S. Cleland, “Market Under-Appreciates Benefits of FCC’s Access Charge Reform,” Legg Mason Precursor Research (rel. Nov. 29, 1999).

While the achievement of crafting a regulatory solution to access charges that is acceptable to both local exchange carriers and long distance carriers is remarkable enough, the comments reflect support of the basic outline of the CALLS proposal from various stakeholders that were not part of the original signatory group.²

For example, “CompTel believes that the CALLS proposal is a major step forward from the FCC’s current access charge regime” and that on “its merits, the CALLS plan is pro-consumer and pro-competitive.” CompTel Comments at 2, 3. The National Rural Telecom Association and the National Telephone Cooperative Association explain that “the Commission should give negotiated regulatory solutions proposed by carriers for themselves and their customers considerable weight, so long as

² Not surprisingly, not all of these parties supported every aspect of the CALLS compromise. There was widespread support, however, for the adoption of an industry compromise. Because of the difficulty of reaching such a broad-based compromise among the major suppliers and purchasers of access services, the Commission should not attempt to impose selective changes to the proposal. The result would undermine the compromise and continue the current regulatory purgatory that is harmful to all parties and their customers.

the resulting proposals provide consumers the benefits Congress intended in enacting the 1996 Act.” NRTA and NTCA Comments at 4. With its emphasis on promoting competition, reducing regulatory distortions, and reducing overall costs, the CALLS plan clearly meets that standard. *See* CALLS Comments at 11-16.

The Communications Workers of America, together with the Alliance for Public Technology and the National Association for Development Organizations (“Alliance Comments”), endorse the CALLS plan. They attach a consumer welfare study, which “demonstrates that residential customers at all income levels could gain annual benefits of \$1.2 billion” if the CALLS plan were to be adopted. Alliance Comments at 4.

Even MCI, which has opposed any effort to maintain economically reasonable access charges, acknowledges the “obvious strengths” of the CALLS proposal and agrees that “lower switched access rates that would result from implementation of the CALLS plan would increase consumer welfare by allowing long distance rates to fall and stimulating demand for long distance calling.” MCI Comments at 2.

Perhaps the most compelling summation of the impact of the CALLS proposal was offered by the Commonwealth of Massachusetts (at 2):

“The CALLS Plan presents an historic opportunity for the FCC in one stroke to promote several of the still-elusive goals of the Telecommunications Act of 1996. The CALLS Plan would reform the pricing system for interstate access to bring it more in line with the underlying cost structure. The CALLS Plan would target subsidies for social policies in an explicit manner that is consistent with the Act and more conducive to competition and investment than the current implicit pricing subsidies. In doing so, the CALLS Plan advances the policy goals of competition, universal service, investment in advanced technology, and simplified customer bills. Moreover, the CALLS Plan advances these goals in a way that avoids the litigation that has plagued all concerned since passage of the Telecommunications Act of 1996.”

II. Rates Under The CALLS Plan Are Reasonable

Despite the diverse praise for the CALLS proposal and its dramatic access rate cuts, some parties complain that the Commission should prescribe even deeper cuts. But there is no basis for such cuts. Indeed, absent the CALLS compromise, the economic evidence overwhelmingly supports smaller annual reductions to access rates – the so called “X factor.” Because the CALLS plan maintains the current X factor of 6.5% for a portion of the plan, the total access charges (including end user charges) collected over the life of the CALLS plan may be significantly less than would otherwise be allowed under going forward rules.

The Commission’s justification of the current 6.5% X factor has already been rejected by a federal appeals court. In setting the 6.5% X factor, the Commission developed its own productivity study which showed an historical X factor as low as 5.2%. Nevertheless, the Commission’s order selected 6.0% as the base X factor. The Court found that none of the explanations that the Commission offered as to why the data supported so high an X factor “holds water.” *United States Telephone Association v. FCC*, 188 F. 3d 521, 525 (D.C. Cir. 1999).³

The passage of time has proven the Court correct in rejecting so high an X factor in general and for rejecting claims of an upward trend in local exchange carrier productivity in particular.⁴ Updates of the Commission’s own productivity study show

³ In addition, the Court rejected the additional half-point that was larded onto the X factor – the so called “consumer productivity dividend.” *Id.* at 527.

⁴ The Commission has a pending Notice of Rulemaking in response to the Court of Appeals decision. Any decision there would be subject to the same scrutiny as the order establishing the rejected 6.5%. While comments have not yet been filed on the staff proposed models, it is clear that these models would not maintain or increase the

a *decrease* in productivity growth, with current averages for X factors at an annual rate of around four percent. *Access Charge Reform*, CC Docket No. 96-262, F. Gollop, “Economic Evaluation of q Factor Proposed by AT&T” at Chart D1, Attached to Reply Comments of USTA (filed Nov. 29, 1999). Thus, the 6.5% annual decreases in access prices under the CALLS plan are far greater than could be sustained under a business as usual regulatory result.⁵

In addition, the CALLS plan itself reduces the growth rate of total factor productivity. First, by restructuring rates and accelerating the decline in per-minute charges, the plan will reduce output (measured by dollars paid for services under the Commission’s productivity models). *See Access Charge Reform*, CC Docket No. 96-262, Comments of William E. Taylor, Ph.D. at ¶ 48, attached to Comments of USTA (filed Oct. 29, 1999) (“changing a component of output to a slower-growing measure

current X factor without departing from the entire base of Commission precedent on productivity analysis.

⁵ The issues raised by MCI as justification for further access price reductions have either already been rejected by the Commission or have no underlying support. For example, MCI advocates using interstate only (rather than total company) productivity to calculate the X factor. There is no economic basis for such a calculation and the Commission has previously rejected these same arguments. *See Price Cap Performance Review for Local Exchange Carriers*, 12 FCC Rcd 16642 at ¶ 110 (1997). Similarly, the Commission has recognized that the basis for the g/2 calculation has disappeared under the current total factor productivity calculations and there is clearly no basis to attempt to restructure past rates based on this outdated calculation. *See id.* at ¶ 170. Finally, MCI cites to the current audit of continuing property records. While the Commission has reached no conclusion with respect to the staff report, the major accounting firms testifying in those proceedings are unanimous that the methods used by the staff in that audit are so flawed and biased as to make any legitimate conclusion from the audit impossible. Regardless, the audit addressed only the engineering records of the carriers, which unlike their accounting records, have never had an impact on rates, even prior to the current price cap regime.

would require application of a lower X factor”).⁶ Second, by restructuring rates and providing limited deaveraging between high and low cost areas, the plan will spur additional competition. Increased competition also has the impact reducing achievable productivity. *Access Charge Reform*, CC Docket No. 96-262, L. Christensen, et. al, “Updated Results for the Simplified TFPRP Model” at 10-11, attached to USTA Comments (filed Jan. 29, 1997) (“Under competition, the ILECs can expect to experience a decrease in total output growth,” which in turn will “lead to a reduction in ILEC TFP growth”).

Some parties complain that the CALLS plan “eliminates the ‘X factor’ from the Commission’s price cap formula.” Comments of the Competition Policy Institute at 2. This is a misunderstanding of the proposal. The X factor is retained throughout the plan, initially at the inflated 6.5% level, and, after per-minute rates fall to the agreed upon benchmark, to a level equal to inflation. At no time is the X factor eliminated and real rates continue mandated decreases throughout the life of the plan.

Reducing the X factor once per-minute rates reach \$.0055 is a reasonable interim step to market-based rates. Two of the three largest access customers agreed to these rate levels as part of the coalition. The third, while not supportive of the plan as a whole, does acknowledge that the target rate “if not perfect,” is “at least acceptable” and

⁶ While in the recent access reform Notice, the Commission has suggested that per-line growth is slower than per-minute growth, the Commission previously rejected an adjustment for the impact on productivity as too “speculative” because of offsetting potential productivity growth from demand stimulated by lower per-minute prices. *Price Cap Performance Review*, Fourth Report and Order, 12 FCC Rcd 16642 at ¶ 129 (1997). The Commission then failed to account for the fact that any demand stimulation would have a reduced impact on measured productivity growth due to the reduction in per-minute rates.

this “reasonable” price level should not be the focus of change to the plan. MCI Comments at 3. These three customers account for approximately 80% of the market for switched access services and their acceptance of the target rate should be sufficient to answer any arguments for additional reductions.⁷

Similarly, there is no need for additional reductions to special access rates. The Commission has already acknowledged that these services are subject to significant competition. The Commission recently adopted measures that would allow the majority of special access services, which face competitive pressure from collocated competitors, to be priced more flexibly and in instances where the competition is even greater, to be priced without price cap restraint. These measure were intended to “increase the efficiency of the interstate access market and reduce prices to end-user customers.”

Access Charge Reform, CC Docket No. 96-262, Fifth Report and Order at ¶ 79 (rel.

August 27, 1999).⁸ The CALLS plan capitalizes on that competition by focusing mandated reductions on switched access services (thereby speeding their reduction) and letting market forces determine the “correct” levels for special access prices. Of course,

⁷ Level 3 argues that the benchmark rate should be even lower because Bell Atlantic has agreed to a lower rate in its interconnection agreements. Level 3 Comments at 3. But those agreements are for intercarrier compensation, including compensation for calls bound for the Internet. They do not cover access charges, and Level 3 offers no cost support to suggest that these lower rates could reasonably be applied to access charges.

⁸ The order’s goals are undermined by the requirement that regardless of the level of competition faced by local exchange carriers, they can only take advantage of the allowed flexibility if they give up the protection of the lower formula adjustment for all services, including those remaining under the most stringent price cap rules. Bell Atlantic has petitioned for reconsideration of this requirement. *See Access Charge Reform*, Bell Atlantic Petition for Reconsideration, CC Docket No. 96-262 (filed October 22, 1999). Regardless, under the CALLS proposal, which provides regulatory certainty for the life of the plan, the importance of such protection is diminished and the participating local exchange carriers, including Bell Atlantic, have agreed to waive lower formula adjustment protection.

under the CALLS plan, such services would remain subject to price caps until the Commission agreed that competition was sufficient to allow forbearance from regulation.

The subscriber line charge is also set at a reasonable level under the CALLS plan. The rate would recover costs already assigned to the interstate jurisdiction and recovered in current rates.

One party suggests that setting the X factor to equal inflation without further reductions in to these common line rates “has the effect of immunizing the line charges paid by end user customers from any downward competitive pressure.” California Comments at 6. In fact, the plan does the opposite. First, by consolidating interstate common line cost recovery into a single end-user charge, the CALLS plan exposes that charge to competition from competing local exchange carriers (including those that rely on unbundled network elements). Second, because the end-user charge is higher in high cost areas and lower in low cost areas, the plan better aligns rates with costs. As a result, it encourages competitive investment, which in turn will provide greater market-based competition. As one analyst explained, these changes would “encourage local facilities-based competition and stimulate broadband deployment” – which will spark even further competition. S. Cleland, “Market Under-Appreciates Benefits of FCC’s Access Charge Reform,” Legg Mason Precursor Research (rel. Nov. 29, 1999). Indeed, Wall Street recognizes that the CALLS plan will “significantly shift regulatory emphasis” to “promoting real competition in the residential small business market.” S. Cleland, “Breakthrough Industry Compromise Paving Way For FCC Subsidy Reform?” Legg Mason Precursor Research (rel. Aug. 2, 1999).

Some parties nevertheless complain that reductions in nominal access charges should continue because end-user charges are still above 25% of TELRIC levels used to set unbundled network element prices. But the Commission itself recognized that access charges recover costs that are excluded from recovery in unbundled network element rates. *See Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, 11 FCC Rcd 15499 at ¶¶ 691, 694 (1996). Regardless, TELRIC costs are not based on the actual common line costs assigned for interstate recovery. End-user charges under the CALLS plan would be limited to recovery of these actual costs. The parties that would propose further cuts to end-user charges do not provide a mechanism to recover these costs. *See* R. Crandall, J Rohlfs, “The Economic Case For The CALLS Proposal at 5, attached to Reply Comments of BellSouth (in “telecommunications and other industries where economies of scale and/or scope are important, marginal-cost pricing of all services provided by the network provider does not cover the total costs of building” and as a result “all services must be marked up over marginal cost so that the firm covers its total costs”). Moreover, the pro-competitive benefits of the plan would be undermined if carriers were not given an opportunity to recover their costs. If regulators force prices below actual cost, there is no incentive for competitors to invest.

Not only are end-user charges cost-based, they will remain affordable under the proposal. For most customers, the price of service will go down. Even the average low volume customer will get a price decrease. For those few customers that will experience an increase, the impact will be small. To cite an extreme example, low volume customers in high cost areas see a net increase of less than twenty cents a month

on their bill. *See* sample bills attached to CALLS Reply Comments. Regardless, even if there were more significant price increases, which there are not, they will not come close to levels that could impact affordability. *See* Massachusetts Comments at 7 (state per-line charges were increased from about three dollars per month to almost ten dollars a month, but “did not adversely affect universal service in Massachusetts”).

The price declines are even more pronounced for low income customers. By expanding Lifeline protection to cover charges moved from Presubscribed Interexchange Carrier Charges (PICCs) to local exchange carrier subscriber line charges (SLCs), the plan brings these charges within the scope of Lifeline protection, thereby increasing total support. The Ohio Commission misconstrues the plan in its claim that Lifeline customers lose Lifeline support for intrastate charges under the CALLS plan. Ohio Comments at 32. The Lifeline amounts currently used to reduce intrastate charges will be retained under the CALLS plan. Qualifying customers will continue to receive that benefit in addition to the augmented support for federal charges.

Conclusion

The Commission should adopt the CALLS plan without modification.

Respectfully submitted,

/S/

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