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Public Service Commission

November 24, 1999

DOCKET FILE COPY ORIGINAL

VIA AIRBORNE EXPRESS

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW - TW-A325
Washington, DC 20554

Re: CC Docket No. 96-262, Access Charge Reform;
CC Docket No. 94-1, Price Cap Performance Review for Local Exchange Carriers;
CC Docket No. 98-63, Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers
CC Docket No. 98-157, Petition of US West Communications, Inc. For Forgearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA

Dear Ms. Salas:

Enclosed please find the original and eleven (11) copies of the Reply Comments of the Florida Public Service Commission with regard to the further notice of rulemaking in the above-noted dockets. Please date stamp and return one copy in the enclosed, self-addressed envelope.

Sincerely,

Cynthia B. Miller
Intergovernmental Counsel

CBM:tf
cc: International Transcription Service
Brad Ramsay, NARUC

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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
	)	
Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers	)	CCB/CPD File No. 98-63
	)	
Petition of US West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA	)	CC Docket No. 98-157
	)	

REPLY COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION

On August 27, 1999, the Federal Communications Commission (FCC) released its Fifth Report and Order and Further Notice of Proposed Rulemaking (FNPRM) in the above referenced matter. The Florida Public Service Commission (FPSC) is pleased to provide reply comments on two of the issues raised in the FNPRM: (1) geographic deaveraging of interstate common line charges, and (2) competitive local exchange company (CLEC) access charges. With respect to the first item, the FCC is considering whether interstate price cap, local exchange companies (LECs) should be required to make a competitive showing in order to obtain authority for deaveraging. On the second item, the FCC is seeking comment on market-based and other approaches to ensure that CLEC access charges will be reasonable.

Geographic Deaveraging of Interstate Common Line Charges

The FPSC readily acknowledges that there is economic justification for deaveraging interstate common line charges since these are designed to recover loop costs, which vary significantly depending on density and length. Despite this economic justification for deaveraging common line charges, we believe the FCC should require a competitive showing of need in order to avoid unnecessary deaveraging. The competitive showing of need should be based on some demonstration that the LEC has suffered meaningful competitive erosion, although we are not prepared to recommend a specific trigger at this time.

Subscriber Line Charges (SLCs) are directly billed to end users, and Presubscribed Interexchange Carrier Charges (PICCs) are either billed directly to end users or passed through to end users in the form of line items on the bill. Since these charges are effectively access fees, deaveraging may yield results that are contrary to the requirement in Section 254(b)(3) of the Telecommunications Act of 1996 (the Act) that rates in rural and urban areas be "reasonably comparable." The full text of Section 254(b)(3) of the Telecommunications Act of 1996 (the Act) is as follows:

> ACCESS IN RURAL AND HIGH COST AREAS - Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

Satisfying the "reasonably comparable" rate standard becomes more difficult if SLCs and PICCs are deaveraged.

With deaveraging, we acknowledge that universal service funding could be provided in lieu of having the LECs actually charge deaveraged SLCs and PICCs in rural, high cost areas.

While this approach would be more in keeping with the "reasonably comparable" rate standard, it would dilute the effect of the geographic deaveraging and could be premature.

If there has been no meaningful competitive erosion, the combination of deaveraging and universal service support could allow the LEC to realign its rates and protect against loss of low-cost, high-margin customers. If this occurred, universal service support would be funding rate deaveraging, and effectively improving the competitive position of some LECs at the expense of other providers. Consequently, we believe it is essential that any universal service support provided in this context be used to mitigate the financial effects on the LEC of losing low-cost, high-margin customers.

Additionally, Section 254(g) of the Act requires 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. Such rules shall also require that a provider of interstate interexchange services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.

Under Section 254(g), an interexchange carrier would be in the position of being required to charge averaged retail rates, while the access charges they pay would be deaveraged. Thus, the carrier's profitability in high cost areas would decline, and some traffic could become unprofitable. Faced with an inability to deaverage retail rates, some interexchange carriers might discontinue service in these areas. Having fewer interexchange carriers in these high cost areas may make it difficult to satisfy the requirement in Section 254(b)(3) that consumers have reasonably comparable access to interexchange services in rural and urban areas. Since interexchange carriers are presently ineligible for universal service support, there is no apparent vehicle to mitigate this exit incentive and ensure compliance with the reasonably comparable access requirement of Section 254(b)(3).

In addition, needless deaveraging of SLCs and PICCs would add unnecessarily to consumer frustration and confusion about federal end user charges. Most consumers are already frustrated and confused by the complexity and level of charges, and they do not understand or consider the nature of the underlying costs. Permitting deaveraging of these charges without a competitive showing, when many customers have yet to understand or accept the previous changes and increases in their bills, would further complicate an already confusing situation.

Since the proposed changes may (1) create results that are contrary to Sections 254(b)(3) and 254(g) of the Act, (2) create the need for additional explicit subsidies, and (3) add to an already confusing landscape of end user charges, the FPSC strongly urges the FCC not to permit deaveraging of interstate common line access charges without a significant competitive showing.

CLEC Access Charges

Within the FNPRM, the FCC expresses concern that market forces currently may be inadequate to constrain the level of CLEC access charges. While the FPSC believes that market forces are generally sufficient to constrain CLEC originating access charges, we do not believe the same can be said for CLEC terminating access charges. On the originating end, interexchange carriers can negotiate with CLECs to lower these rates. We see no reason why an interexchange carrier cannot refuse a CLEC's access traffic; in fact, one long distance carrier's threat to do just that has prompted a Florida CLEC to lower its originating access charges.

In contrast, the situation with CLEC terminating access charges is entirely different. In our opinion, there are no market forces presently at work, and the CLEC is effectively a monopolist. Although we agree with the FCC that a market-based approach would be preferable, we are not convinced that a reasonable, market-based solution can be developed.

The market-based proposal described in the FNPRM which would allow an interexchange carrier to charge different rates to different end users to reflect differences in access charges seems problematic to us in several respects. We believe such an approach would increase the cost and difficulty of an interexchange carrier's marketing effort, would unduly complicate the billing process, and is simply impractical. Also, as pointed out in the FNPRM, this approach appears to be counter to the legislative intent of Section 254(g) of the Act.

Finally, we have considered a mechanized system which would enable an interexchange carrier to refuse to terminate calls to a CLEC. While this would provide an incentive for high-priced CLECs to lower their terminating access charges, we do not recommend that the FCC take this approach as it would inconvenience consumers when a call could not be completed.

If some form of regulatory control is found to be necessary to ensure reasonable CLEC terminating access rates, we would prefer that the control not take the form of an absolute price ceiling. Bell Atlantic proposes that the terminating access rates of all carriers, both CLECs and incumbent LECs, should be linked to their originating access rates. Such a linkage could provide assurance that terminating access rates would be reasonable, while taking best advantage of the market forces which limit originating access charges. We believe that the Bell Atlantic proposal is the most promising option, although the effectiveness of this approach hinges on a key assumption. The linkage would only provide an effective control if a CLEC has sufficient originating access traffic to ensure that its originating access rates will be reasonable. Another reservation would be whether or not this linkage could be effectively enforced.

In conclusion, we are not convinced that a reasonable, market-based solution can be developed, although we agree with the FCC that a market-based approach would be preferable.

At this time, the Bell Atlantic proposal appears to be the most promising option, and we urge the FCC to further investigate the advantages and disadvantages of this proposal.

Summary

With respect to geographic deaveraging of interstate common line charges, we recommend that the FCC require a competitive showing in order to avoid needless deaveraging. Deaveraging may (1) create results that are contrary to Sections 254(b)(3) and 254(g) of the Act, (2) create the need for additional explicit subsidies, and (3) add to an already confusing landscape of end user charges. Given these concerns and complications, we believe that deaveraging should be authorized only if the LEC has suffered meaningful competitive erosion.

With respect to CLEC access charges, we share the FCC's concern that market forces may not be adequate at present to constrain the level of terminating charges. While a market-based approach would be preferable, we are not convinced that a reasonable, market-based solution can be developed. We believe that the FCC should further evaluate the Bell Atlantic proposal, whereby the terminating access rates of all carriers would be linked to their originating access rates.

Respectfully submitted,

Cynthia B. Miller
Intergovernmental Counsel

Dated this 24th Day of November, 1999.

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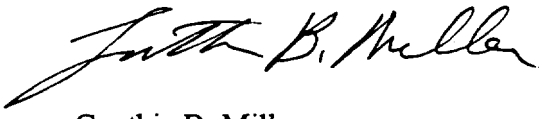
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Florida Public Service Commission comments will be furnished to the parties on the attached list.

Respectfully submitted,



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DATED this 24th day of November, 1999.

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