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DIVISION OF POLICY ANALYSIS &
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Public Service Commission

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December 1, 1999

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. 99-249, Low-Volume Long Distance Users
CC Docket No. 96-45, Federal-State Joint Board on Universal Service

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 CALLS proposal and the notice of rulemaking in the above-noted dockets. Please date stamp and return one copy in the enclosed, self-addressed envelope.

These comments are filed in opposition to the CALLS proposal. If the FCC engages in serious negotiations with the CALLS proponents, states should be included in those negotiations.

Sincerely,

Cynthia B. Miller
Intergovernmental Counsel

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

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FCC MAIL ROOM

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

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
	)	

REPLY COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION
ON NOTICE OF PROPOSED RULEMAKING

On November 10, the Florida Public Service Commission (FPSC) filed preliminary comments in opposition to the CALLS petition. At that time, we mentioned that we would be further evaluating the petition and meeting with industry proponents. We now adopt those comments as our final comments, with the following additions.

While we are genuinely impressed that the industry has undertaken this consensus effort, we fear that it is not in the best interest of consumers. We acknowledge that the existing regulatory paradigm has not established a high level of local competition and that the litigation and uncertainty are problematic. Yet, we do not believe this proposal is the solution.

It appears that the size of the universal service fund would increase significantly. It appears that the low income customers who do not qualify for Lifeline would be harder hit or burdened under the Lifeline plan, especially if they are low-volume users.

Another policy issue is that it does not appear preferable to have an absolute increase in the Subscriber Line Charge (SLC) authorized up to 100% above today's SLC rather than a possible increase in other charges without the CALLS plan.

Ambiguities, Questions and Unknowns

We continue to be unsure of the exact details of the CALLS plan. And, as is often said, the devil is in the details. We question what happens to those companies who do not elect to participate. MCI and U S WEST are two of the major players that have not signed on to the plan. The section on non-signatory price cap LECs states, "The signatories agree that non-signatory price cap LECs are not bound by the terms of this plan and that the access rules that will apply solely to non-signatory price cap LECs will be determined by the FCC."

Throughout the petition, there are confusing provisions. In Section 2.2 on New Universal Service for Areas Served by Price Cap LECs, the plan provides:

> If any such area does not participate in the program, either because the price cap LEC does not participate or because the area is offered for sale after January 1, 2000, and sold to a non-price cap company, then the funding estimates for that area . . . will not be collected or distributed as part of this plan for price cap LECs.

Thus, this is another question mark as to a gap where the plan will not actually cover the situation.

We also note the areas in which the CALLS proponents expressly did not reach a consensus originally:

> In footnote 27 of the draft rule 54.800 on universal service, the petition notes: "The parties disagree as to whether the models on UNE prices should be used for this calculation, and will agree {argue} their respective positions to the FCC."
>
> In footnotes 28 and 29, similarly, the CALLS plan notes that "the parties do not agree in the methods in establishing the portable per line amount."

> In footnote 31, it is stated that "Parties do not agree as to the method for safeguard against revenues from deaveraged End User Common Line Charges exceeding the revenues that would be permitted for averaged End User Common Line Charges."
>
> In footnote 32, "parties do not agree as to whether the minimum charge should also be adjusted to reflect a portion of those Study Area Above Cap Revenues not offset by Study Area Universal Service Support."
>
> In footnote 94, "Bell Atlantic, BellSouth, GTE and SBC do not support use of a model to calculate universal support, and together with Sprint do not join in the citation of AT&T's model-based calculation."

While we understand from the CALLS proponents that these areas now have been addressed, we have not seen the new language.

SBC/Southwestern Bell notes that the CALLS proposal should be adopted by the FCC in its entirety. "The CALLS Proposal represents a series of compromises between the signatories that are proposed as a comprehensive solution." Thus, this appears to not allow the FCC to make improvements to the proposal. SBC adds an interesting point, which we question: "This proposal offers regulators the unique opportunity to allow the market, as presented by the signatories to the proposal, to produce the most economically efficient results, as opposed to regulation." Somehow, the negotiation of some members of the market does not seem to us to equal market forces. Also, while seeking the FCC umbrella, this proposal does not allow the FCC to make revisions that balance public interest considerations.

Rebuttal to CALLS Presentations

The sample bills (Attachment A) that were circulated by CALLS proponents during NARUC's annual convention are problematic. One sample purports to compare the impact of the CALLS plan on the low-volume consumer to that of the current FCC rules, projected over time. The claim is that by July 2003, low-volume users could pay less under CALLS than they

would be paying under the status quo. In the example we examined, this benefit totaled a $0.70 monthly decrease in the overall bill. A readily apparent problem with the analysis used is that the status quo 2003 bill uses the current AT&T universal connectivity fee of $1.38, while the CALLS bill uses a $0.12 universal connectivity fee which is presumably based upon a percentage of the billed usage. AT&T has already announced the elimination of the $1.38 fee. When the $1.38 fee is used in the CALLS 2003 bill, the net difference, including excise tax, would result in the customer paying $0.60 more under CALLS. Thus, the benefit is quickly turned into a detriment when comparable numbers are used.

A further problem with the benefits claimed to result from the CALLS proposal is the sweeping generality that "the CALLS plan will lead to lower interstate toll bills for consumers, including significant numbers of Lifeline consumers."[1] Such statements are at odds with FCC statistics which show that large numbers of consumers have not benefited from access charge reductions. "Many customers, especially those with a limited number of long distance calls, continue to pay the basic schedule rates."[2] Basic schedule rates for AT&T are higher today than they were in 1989, in spite of access charge reductions.[3] These facts lead us to believe that low-volume users may *not* be the recipients of toll rate reductions.

While the FPSC agrees with various commenters, including CALLS, that the CALLS plan will benefit Lifeline customers, we believe the benefit will be minimal. It is the case that

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[1]Comments of the Coalition for Affordable Local and Long Distance Service ("CALLS"), November 12, 1999, page 4.

[2]FCC *Reference Book of Rates, Price Indices and Expenditures for Telephone Service,* June 1999, p. 42.

[3]Ibid., Table 2-1, p. 44.

those who now pay a PICC will not do so under the plan. Our concern is that while this is an admirable goal, it may not be worth the additional universal service assessment absorbed by other consumers, especially residential customers. As noted in the CALLS comments, "[t]he funding required to enhance Lifeline is separate from, and in addition to, the $650 million funding for the $7 SLC cap."[4] The FPSC pointed out in its initial comments that IXCs charge higher universal service percentages to residential customers than to business customers.[5] We also suggested that the additional universal service support for Lifeline required by CALLS could reach, in a worst-case scenario, some $221 million,[6] which translates to approximately $0.10 per month per access line in Florida. Even AT&T estimates the additional Lifeline support above today's level is approximately $135 million. Yet only one percent of Florida residential access lines would benefit from the provision.[7]

Our preliminary comments urged that "customers should receive the utmost consideration before any fees charged to them are increased." [8] While there are benefits for some customers in the CALLS plan, we have continuing concerns that customers who can least afford increases in their telecommunications bills will pay more under the CALLS proposal than they would under

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[4]CALLS comments, p. 4, footnote 4.

[5]Preliminary Comments of the Florida Public Service Commission on Notice of Proposed Rulemaking, November 10, 1999, page 4.

[6]Ibid., p. 7.

[7]Of approximately 130,000 Lifeline customers in Florida, the industry reports some 35% subscribe to toll blocking. Under FCC rules, the PICC is waived for these customers.

[8]FPSC comments, p. 9.

the current plan. The FPSC reiterates its earlier concern that before implementing *any* new plan the FCC should consider the impact it will have on affordability.

State Commission and Public Interest Comments

The National Association of State Utility Consumer Advocates (NASUCA) concern about the productivity factor in the proposal appears valid. Under the proposal, the reduction in the common line requirements due to the X-factor productivity offset would end immediately. Once the productivity factor drives the IXCs' switched access charges down to a certain level, then the productivity factor would be set equal to the inflation factor, thereby yielding no reductions in the price caps. The Competition Policy Institute also criticizes that the proposal inappropriately eliminates the "X-factor" from the FCC's price cap formula, "eviscerating the theory and practice of price cap regulation."

We also commend the comments of the Competition Policy Institute which state:

> The CALLS proposal has some advantages for consumers: lower carrier access prices that will lead to reductions in long distance rates, simplified monthly bills, and universal service support. But each of these advantages comes at a substantial cost: higher monthly fixed charges, a shift of costs from interexchange carriers to end-users and total access revenues that will be higher than under the current system. Thus, while there are some meritorious aspects to the CALLS proposal, its shortcomings outweigh its merits, making it unacceptable to the interest of telecommunications customers.

AARP expressed similar concerns about the impact of the plan on residential customers in general, and low-volume long distance users in particular.

The California PUC recognizes that certain aspects could bring potential benefits to end use customers. However, other aspects "could detrimentally affect customers by substantially increasing the line charges they pay for basic service." For example, the CALLS proposal "has the effect of immunizing the line charges paid by end user customers from any downward

competitive pressure, thus leading to a situation where customers may ultimately be paying higher line charges than necessary." California, like Florida, also has concerns about the size of the $650 million interstate universal service fund, and how it was derived under the CALLS proposal.

The Ohio Commission expresses the concern with the proposal that "customers are guaranteed only rate increases under the CALLS plan, while those customers are only vaguely promised off-setting rate decreases relative to the price cap access charge reductions." The Ohio Commission also points out that the CALLS proposal is ambiguous on key points.

The Texas Office of Public Utility Counsel urges that the proposal should be rejected. They note that the "proposal does not even give a guarantee that all of the reductions in access charges will be passed through to consumers, not to mention a commitment to pass them through in a manner that ensures low volume users will receive a fair share of any reduction."

Conclusion

We support the above comments made by states and public interest entities in this docket. In addition, we affirm our earlier "preliminary comments" filed in the docket, which raise serious concerns with the proposal. Those concerns include the impact on single-line residential users, especially those who are low income but do not qualify for Lifeline. We continue to express concern about the increased size of the Universal Service Fund, including increased Lifeline support, created by the proposal. We also urge the FCC to consider the "affordability" of the increases to the subscriber line charge. Lastly, we emphasize the "holes" in the proposal. At this point in time, too many questions remain unresolved.

While we commend this major effort of the industry participants, we do not support the proposal itself. Nevertheless, if the FCC does engage in serious negotiation on this proposal, the states should be a party to that negotiation.

Respectfully submitted,

Cynthia B. Miller
Intergovernmental Counsel

Dated this 1st Day of December, 1999.

Low Volume
Average Reduction

Sample Bill
Current Rules

Acct 202-555-1234

JULY 2000

SUMMARY

	Current Charges
$16.68	Local Monthly Service Charge
3.50	Subscriber Line Charge
0.30	Local Number Portability Charge
0.30	Universal Service Fee [starting after 11/1/99 at LEC discretion]
0.68	911
0.06	State Relay Surcharge
0.62	Federal Excise Tax
20.78	Local Monthly
1.36	Taxes/Misc Charges
	Amount Owed to Local Phone Co. **$22.14**
2.50	Intrastate Long Distance
1.47	Interstate Long Distance
2.00	*Carrier Line Charge*
1.38	Universal Connectivity Fee
0.22	Federal Excise Tax
3.97	Long Distance
3.60	Taxes/Fees
	Amount Owed to Long Distance Co. **$7.57**
	Total Monthly Amount Due **$29.71**

Sample Bill
CALLS Plan

Acct 202-555-1234

JULY 2000

SUMMARY

	Current Charges
$16.68	Local Monthly Service Charge
5.37	*Subscriber Line Charge [$5.50 Cap]*
0.30	Local Number Portability Charge
0.30	Universal Service Fee [starting after 11/1/99 at LEC discretion]
0.68	911
0.06	State Relay Surcharge
0.68	*Federal Excise Tax*
22.65	Local Monthly
1.42	Taxes/Misc Charges
	Amount Owed to Local Phone Co. **$24.07**
2.50	Intrastate Long Distance
1.38	Interstate Long Distance
0.13	Universal Connectivity Fee
0.12	Federal Excise Tax
3.88	Long Distance
0.25	Taxes/Fees
	Amount Owed to Long Distance Co. **$4.13**
	Total Monthly Amount Due **$28.20**

NET CHANGE Current FCC Rules to CALLS (July 2000) = - $1.51

Attachment A

Low Volume

Average Reduction

Sample Bill
CALLS Plan

Acct 202-555-1234

JULY 2000

SUMMARY

	Current Charges
$16.68	Local Monthly Service Charge
3.50	Subscriber Line Charge
0.30	Local Number Portability Charge
0.30	Universal Service Fee [starting after 11/1/99 at LEC discretion]
0.68	911
0.06	State Relay Surcharge
0.62	Federal Excise Tax
20.78	Local Monthly
1.36	Taxes/Misc Charges
	Amount Owed to Local Phone Co. $22.14
2.50	Intrastate Long Distance
1.47	Interstate Long Distance
2.00	*Carrier Line Charge*
1.38	Universal Connectivity Fee
0.22	Federal Excise Tax
3.97	Long Distance
3.60	Taxes/Fees
	Amount Owed to Long Distance Co. $7.57
	Total Monthly Amount Due $29.71

Acct 202-555-1234

JULY 2003

SUMMARY

	Current Charges
$16.68	Local Monthly Service Charge
6.15	*Subscriber Line Charge [$7.00 Cap]*
0.30	Local Number Portability Charge
0.30	Universal Service Fee [starting after 11/1/99 at LEC discretion]
0.68	911
0.06	State Relay Surcharge
0.74	*Federal Excise Tax*
23.43	Local Monthly
1.48	Taxes/Misc Charges
	Amount Owed to Local Phone Co. $24.91
2.50	Intrastate Long Distance
1.36	Interstate Long Distance
0.12	Universal Connectivity Fee
0.12	Federal Excise Tax
3.86	Long Distance
0.24	Taxes/Fees
	Amount Owed to Long Distance Co. $4.10
	Total Monthly Amount Due $29.01

NET CHANGE Current FCC Rules July 2000 to CALLS July 2003 = -$0.70

"Worst Case" Net Change at $7.00 SLC Cap = +$0.15 (Additional Reductions from Competition Not Included)

Attachment A

CERTIFICATE OF SERVICE

I hereby certify that copies of these FPSC comments are being mailed to approximately 300 parties on an abbreviated compilation of the service lists for the above dockets.

Respectfully submitted,

Cynthia B. Miller
Intergovernmental Counsel

DATED this 1st day of December, 1999.

I:\fcc\callsrpl