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April 3, 2000

VIA ELECTRONIC COMMENT FILING SYSTEM

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
Room TW-A324
445 Twelfth Street, SW
Washington, D.C. 20554

Re: *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*

Dear Ms. Salas:

Enclosed please find an electronic original of the Comments of the Ad Hoc Telecommunications Users Committee in the above-captioned proceeding. These Comments are being filed via the Federal Communications Commission's Electronic Comment Filing System ("ECFS").

If you have any questions regarding this filing, please do not hesitate to call me at (202) 857-2550.

Sincerely,



Stephen J. Rosen

**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
)	

**COMMENTS OF THE
AD HOC TELECOMMUNICATIONS USERS COMMITTEE**

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April 3, 2000

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Comments of the Ad Hoc Telecommunications Users Committee

The Ad Hoc Telecommunications Users Committee (“the Committee” or “Ad Hoc”) hereby submits its comments on the March 8, 2000 modifications to the proposal submitted by the Coalition for Affordable Local and Long Distance Services (“CALLS”) to the Commission on July 29, 1999.¹ In the instant *Public Notice*, the Commission seeks comments on certain additions and modifications to the original proposal that would reduce consumer charges, especially for low-volume users.²

¹ See *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, Notice of Proposed Rulemaking, FCC 99-235 (rel. Sept. 15, 1999) (“*Original Notice*”).

² See “Memorandum in Support of the Revised Plan of the Coalition for Affordable Local and Long Distance Service (CALLS)” (filed March 8, 2000) (“Revised CALLS Proposal”); *Public Notice*, “Coalition for Affordable Local and Long Distance Service (CALLS) Modified Proposal,” DA 00-533 (rel. March 8, 2000) (“*Public Notice*”). The comment deadline in this proceeding was extended until April 3, 2000 by *Public Notice*, “Coalition for Affordable Local and Long Distance Service (CALLS) Modified Proposal,” DA 00-692 (rel. March 24, 2000).

INTRODUCTION AND SUMMARY

Consistent with its comments earlier in this proceeding, Ad Hoc continues to offer qualified support for the Revised CALLS Proposal, because the Proposal begins to rationalize access charges and would recover a greater portion of the interstate share of local loop costs from the ultimate cost causers—the subscribers of those lines. In its earlier comments, the Committee described certain elements of the CALLS proposal that should be changed in order to protect the interests of business users in particular, and all consumers in general. Because the Revised Proposal does not address these concerns, Ad Hoc will briefly reiterate them in this pleading. Based on the suggestions contained herein, the Committee continues to hope that the Commission will be responsive to the needs of business users, not just residential consumers and carriers, in crafting its plan for reform.

Preliminarily, the Commission should seize this opportunity to rationalize the currently subsidy-laden access charge regime. While such an economic rationalization will, in the short term, increase the residential line charges, it will also encourage competitive entry into the local telephony market. Increased competition will lower prices and increase the quality and variety of local services offered to the nation's businesses and residences. There is no statutory or public policy reason to generally keep residential line charges at artificially low levels. Retaining uneconomically low residential line charges is not, given all of the data before the Commission, needed to advance the universal service goals of the

Communications Act and will send false price signals to consumers and potential suppliers.

The Committee further believes that the Revised CALLS Proposal should be modified as follows. First, if it becomes clear that competition in the local service/access service market has not developed, the Commission should not wait until 2005 to actively regulate rates for interstate access service. Second, the Commission should not allow ILECs to recover cost changes as exogenous adjustments to the price cap indices when the ILECs have promoted the regulatory action that led to such cost changes. Third, long distance carriers have been marking up the Primary Interexchange Carrier Charge ("PICC") far in excess of any reasonable administrative costs. In order to prevent such behavior, and put multi-line business customers in the same position as residential customers, the multi-line business PICC should be combined with a multi-line business Subscriber Line Charge ("SLC") that would be the sum of the multi-line business SLC and the multi-line business PICC, as they would be adjusted under the CALLS Proposal. Finally, ILECs should be required to recoup their universal service contributions through per line charges, rather than allowing them to recover these contributions as they wish. Because the local loop is a non-traffic sensitive element, it is only economically rational to recover its costs through non-traffic sensitive, or per line, charges.

A. The Commission Should Seize Upon This Opportunity to Rationalize the Access Charge Structure

As noted below, the CALLS proposal is not perfect. The proposal does, however, move towards untangling the obsolete web of subsidies that will retard

the development of local exchange competition. In particular, the CALLS Proposal takes significant steps towards: (1) ending the practice of allowing LECs to recover non-traffic sensitive local loop costs on a traffic sensitive basis; and (2) wringing implicit universal service subsidies out of the access charge regime. These steps towards economic rationality will increase the likelihood of competitive entry, thereby driving the price of local service down, and allowing customers to choose the service provider and service package that best meet their needs for price and quality.

Economic rationalization of the access charge regime will result in residential customers paying higher monthly charges for their telephone service, at least in the short term. The Committee is aware that such rate increases have, in the past, created an obstacle to reform. There are two reasons why the Commission should not, however, allow this admittedly politically sensitive issue to interfere with the current opportunity for reform.

First, while residential rates might increase in the short term, once residential telephone service is freed from the system of subsidies that artificially deflate its price, more entities will be willing to provide this service. When competitive entry occurs, the laws of supply and demand will take over, and prices should fall while the variety of services increases, as has been the case in the long distance market since it became competitive. In short, if the Commission enacts the CALLS Proposal, local communications will begin to resemble every other commodity in the United States—priced and distributed according to market mechanisms.

Second, there is no statutory or public policy reason why local telecommunications should not be priced and distributed according to market mechanisms. The Communications Act requires that telephone service rates be “just and reasonable,”³ “affordable,”⁴ and “reasonably comparable” across the country.⁵ Provided any rate increases are economically justified and otherwise consistent with the public interest, none of these statutory mandates prohibit the Commission from raising residential line rates. Further, as long as the Lifeline, Link-Up, and high cost programs are adequately funded and properly targeted, economically needy families, and those living in rural, high cost areas, will continue to have access to the PSTN. Thus, neither the Communications Act nor public policy concerns justify the rejection of the CALLS Proposal solely because it would increase consumer line charges.

B. If Exchange Access Competition Does Not Become Widespread and Effective, the Commission Must Re-Visit the CALLS Proposal.

In its Original Proposal, CALLS recognizes that its solution is merely a way-station on the path to market-based access charge and universal service reform. Specifically, CALLS concedes that the long-term solution to the issues that its proposal addresses is the development of further competition in local telecommunications.⁶ As stated by CALLS, if such competition, "has not

³ 47 U.S.C. § 201(b).

⁴ 47 U.S.C. § 254(b)(1).

⁵ 47 U.S.C. § 254(b)(3).

⁶ "Memorandum in Support of the Revised Plan of the Coalition for Affordable Local and Long Distance Service (CALLS)" at 43 (filed Aug. 20, 1999) ("Original CALLS Proposal").

developed sufficiently in some access markets, the Commission can craft an appropriately tailored solution at that time."⁷

The Committee agrees that competition is the only way to guarantee that all business and residential customers have access to reasonably-priced, high quality local telecommunications services. Unless and until the implicit subsidies are removed from the pricing scheme for local services, however, this competition will not take root. In addition, even after such subsidies are eliminated, it will take time for market entry to occur. Therefore, the Commission must leave open the possibility that exchange access competition will not develop adequately in significant portions of the country prior to 2004. While Ad Hoc hopes that such will not be the case, if it is, the Commission should exercise its regulatory authority to protect both business and residential consumers.

C. The Commission Should Ensure That ILECs Do Not Use Exogenous Costs to Disadvantage Consumers.

The Commission should not allow ILECs to use exogenous adjustments to price caps to game the system to disadvantage consumers. There are two aspects of the CALLS Proposal that would permit ILECs to engage in such behavior and should therefore be eliminated.

First, the Commission should not allow participating ILECs to recover exogenous cost adjustments due to regulatory or legislative changes that the ILECs have supported, particularly when the ILECs have initiated such changes. Rather, the Commission should require the signatory ILECs to forego any such adjustment, because the ILECs should not be rewarded for initiating collateral

⁷ *Id.*

actions whose purpose or effect would be to create *pseudo*-exogenous cost increases that swallow up the consumer benefits of the CALLS proposal.

Senate Bill 1217 ("S. 1217")⁸ and House Bill 2670 ("H.R. 2670")⁹ are examples of such ILEC behavior. These bills would have effectively freed ILECs from the Uniform System of Accounts ("USOA"),¹⁰ thereby allowing them to set depreciation rates without Commission oversight. Chairman Kennard, citing an analysis done by the Common Carrier Bureau, perceptively observed that the reduction in booked costs resulting from allowing local exchange carriers to select their own depreciation rates "would make nearly every price cap carrier eligible for a substantial access charge increase totaling as much as \$1.5 billion per year."¹¹ Under the CALLS Proposal, consumers would pay the entire \$1.5 billion tab, as carriers would be allowed to increase SLCs, Multi-Line Business PICCs, and Special Access Charges to recover this windfall.

Second, the Commission should eliminate the feature of the CALLS proposal that would permit ILECs inappropriately to shift "exogenous cost" increases applicable to traffic sensitive network elements to non-usage sensitive cost recovery. In particular, under the Proposal, the signatory ILECs would not be barred from attempting to recover the full measure of such changes from rate

⁸ On September 8, 1999, the Senate passed companion measure H.R. 2670 in lieu of S. 1217.

⁹ On October 25, 1999, H.R. 2670 was vetoed by the President.

¹⁰ Uniform System of Accounts for Telecommunications Companies, 47 C.F.R. Part 32.

¹¹ Telecommunications Reports International, Inc., Telecommunications Reports with TR Daily, *Kennard Joins States, Consumer Groups In Pressing Congress to Drop GAAP Provisos*, September 20, 1999, at 2.

elements such as SLCs, PICCs, and Special Access Charges.¹² This feature of the CALLS proposal would therefore allow the long distance carriers to avoid any exogenous cost changes that should be recovered from the usage sensitive rate elements, because they are economically attributable to such rate elements. While representing a bonanza for carriers, this feature exposes users to possibly significant rate increases.

Against this background, should the Commission permit ILECs to recover some exogenous costs, it should require that any allowed exogenous cost adjustments to the price cap indices be made pursuant to the existing price cap rules.¹³ Any other Commission action would inappropriately require end users to shoulder the entire burden of paying for such adjustments.

D. The Multi-Line Business PICC Should Be Incorporated Into the Multi-Line Business SLC, and Local Exchange Carriers Should Be Required to Bill the PICC Directly.

Under the CALLS Proposal, the residential and single line business PICC would be eliminated, and these amounts would be recovered through increased residential and single line business SLCs.¹⁴ By contrast, while the multi-line business PICC would drop, long distance carriers could continue to bill their customers for this charge.¹⁵

While the Committee has no objection to the elimination of the residential and single-line business PICC and the institution of a capped, higher SLC, the

¹² Revised CALLS Proposal, Appendix A at 20, § 3.2.5.

¹³ 47 C.F.R. §§ 69.2, 61.3, 61.45, 69.111.

¹⁴ Revised CALLS Proposal, Appendix A at 1-2, § 2.

¹⁵ *Id.*

Commission should also eliminate the multi-line business PICC and change the multi-line business SLCs to match the proposed changes in multi-line business PICCs. Thus, the new multi-line business SLCs would equal the sum of the proposed SLCs and the proposed PICCs over the term of the CALLS proposal.¹⁶

This change to the CALLS proposal is important to Ad Hoc's members because the past behavior of long distance carriers indicates that they will not fully flow through to multi-line business customers all of the reductions in the multi-line business PICCs. In particular, while the nationwide weighted average LEC-billed PICC is approximately \$2.90 per month, the long distance carriers mark-up this figure as follows: AT&T bills its multi-line business customers a PICC of \$3.95 per month;¹⁷ MCI bills its multi-line business customers a PICC of \$3.97;¹⁸ and Sprint bills its multi-line business customers a PICC of \$4.31.¹⁹ The long distance carriers offer no persuasive explanation for their higher PICCs.

Long distance carriers have claimed that: (1) the higher charges match the ILECs' charges; and/or (2) they had to inflate the PICC in order to recover their costs of administering the PICC programs. These assertions are neither

¹⁶ In its Reply Comments, CALLS justifies its decision not to consolidate the multi-line business ("MLB") SLC and PICC because, "A consolidated MLB SLC would not recover just the average costs associated with providing the MLB lines, but rather would contain a substantial recovery of the average costs of serving other classes of customers." CALL Reply Comments at 41 (filed Dec. 3 1999). This argument does nothing, however, to address Ad Hoc's concern that IXCs are marking up these MLB PICCs. CALLS's argument is simply a red herring to divert attention from the long distance carriers' indefensible PICC markups.

¹⁷ AT&T Tariff F.C.C. No. 1, § 2.5.9.C.3(a), 14th Revised Page 26.4.1.1.

¹⁸ MCI Tariff F.C.C. No. 1, § C.1.06112, Original Page 288 (National Access Fee); MCI Tariff F.C.C. No. 6, § 2.15, 1st Revised Page 43 (PICC).

¹⁹ Sprint Tariff F.C.C. No. 11, § 2.10.9, 6th Revised Page 34.1.

factually correct nor credible. They are factually incorrect because the IXCs' charges exceed the amounts they are charged by LECs by over \$1.00 per month. The assertions are not credible because it is impossible to believe that any IXC needs a markup of close to 50 percent above the weighted average LEC billed PICC to cover its administrative costs.

There is no regulatory or economic principle that permits the long distance carriers to use PICCs to pad their profit margins. Thus, in order to prevent such unjust enrichment, the PICC should be eliminated as a separate rate element, combined with the SLC, and billed directly—and without markup—to the end user by the ILEC.

E. Universal Service Charges Should Be Assessed by ILECs on a Per Line Basis.

Under the CALLS Proposal, price cap ILECs would be permitted to recover their universal service contributions through either per line charges, or through charges that are a percentage of revenues.²⁰ The Commission should not accept this Proposal, because unlike the other carriers that have been granted flexibility with respect to the manner in which they recover universal service contributions, the ILECs still possess market power. Therefore, the Commission cannot count on market forces to discipline the ILECs' universal service contribution recovery practices.

In addition, allowing ILECs to recover the costs of subsidizing a non-traffic sensitive network element—the local loop—through the use of a traffic sensitive mechanism—end user revenues—represents unsound economic policy.

²⁰ Revised CALLS Proposal, Appendix A at 1, § 1.2.

Specifically, recovering universal service subsidies through usage sensitive charges will uneconomically distort rate structures, thereby discouraging competitive market entry. In sum, the most economically rational means of subsidizing loop costs is through an explicit per line charge.

CONCLUSION

The Revised CALLS Proposal represents a good start towards the rationalization of the access charge regime. For the aforesaid reasons, however, the Commission should modify this Proposal in order to place it on a firmer economic footing, and ensure that the reform plan treats business users fairly.

Respectfully submitted,

Ad Hoc Telecommunications
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By _____

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April 3, 2000

Certificate of Service

I, Anthony J. Mangino, hereby certify that a true and correct copy of the preceding Comments of the Ad Hoc Telecommunication Users Committee was served this April 3, 2000 via overnight delivery upon the following parties:

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April 3, 2000