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New York State Attorney General's Reply Comments
CALLS Proposal
April 17, 2000

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC. 20554

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In the Matter of:	)	
Access Change 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-~~259~~ 249
	)	
Federal-State Joint Board On Universal Service	)	CC Docket No. 96-45

Reply Comments of Eliot Spitzer
Attorney General of the State of New York

Mary Ellen Burns
Assistant Attorney General In Charge
Bureau of Telecommunications and Energy

Jill Sandford
Charlie Donaldson
Assistant Attorneys General
of counsel
New York State Attorney General's Office
120 Broadway, Room 23-82
New York, NY 10271
(212) 416-8336
Fax: 416-8877
Jill.Sandford@oag.state.ny.us

April 17, 2000

Background

In August 1999, a coalition of long distance and local carriers submitted a negotiated proposal to the Federal Communications Commission ("FCC" or "Commission") seeking to resolve FCC proceedings addressing Access Change Reform, Price Cap Performance Review For Local Exchange Carriers, Low Volume Long Distance Users, and Federal-State Joint Board On Universal Service[1] in one final Commission Order. On March 8, 2000, the group, which styled itself as the Coalition for Affordable Local and Long Distance Service ("CALLS"[2]), submitted to the Commission a revised proposal which the Commission released for public comment.[3]

As described in the *Memorandum in Support of the Revised Plan of the Coalition for Affordable Local and Long Distance Service*, the revised CALLS proposal ("CALLS 2") is comprised of three interdependent sections. First, the proposal claims to establish an "explicit and portable universal service support mechanism of $650 million" to replace support that currently is "implicit" in interstate access charges. Second, the proposal purports to consolidate and simplify the existing patchwork of loop charges. Third, the proposal claims to provide for an immediate $2.1 billion reduction in per minute switched access charges, and in addition to

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[1] Access Change 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. 99-259; and Federal-State Joint Board On Universal Service, CC Docket No. 96-45.

[2] CALLS participants are AT&T, Bell Atlantic, Bell South, GTE, SBC and Sprint.

[3] Coalition for Affordable Local and Long Distance Services (CALLS) Modified Proposal, CC Docket No. 96-262, CC Docket No. 94-1,CC Docket No. 99-259, CC Docket No. 96-45, Public Notice, DA 00-533 (rel. March 8, 2000).

guarantee reductions in special access rates.[4] The New York Attorney General's reply comments address certain of these issues.

Summary of Reply Comments

The specifics of the proposal include very limited benefits for telephone service customers but significant impacts on competition. Specifically, the New York State Attorney General is concerned that if adopted the proposal may increase the total access charges telephone service customers will pay over five years and will undermine competitive pressures to reduce access costs. Moreover, we are concerned about the proposal's retreat from competitive pricing of long distance rates through side letters from certain interexchange carriers ("IXCs"), side letters which are themselves and of indeterminate value. Underlying each of these concerns is the fundamental concern that there is an utter lack of specific data in the record of this proceeding to support this proposal and, an inadequate record on which to base any decision to approve it.

Finally, we are concerned about allegations that there may be a tie-in between the CALLS 2 proposal and the FCC's completion of audits of certain local telephone company property.[5] The record of this proceeding does not cover these audits and the status of these audits should not be relevant to the FCC's decision here.

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[4] Memorandum in Support of the Revised Coalition for Affordable Local and Long Distance Services (CALLS), *Ex Parte*, CC Docket No. 96-262, CC Docket No. 94-1, CC Docket No. 99-259, CC Docket No. 96-45, March 8, 2000.

[5] *See, e.g.*,TR Daily, Telecommunications Reports International, Inc., April 3, 2000.

Interest of the New York Attorney General

The New York State Attorney General is an advocate on behalf of New York State's consumers, especially residential and small business customers of telecommunications and public utility services, and enforces consumer protection and anti-trust laws. The interest of New York consumers in the CALLS 2 proposal is manifest. Both as long distance service customers and as local service customers, individuals and businesses in New York State would be affected directly if the FCC adopts the CALLS 2 proposal or any of the proposal's significant provisions.

Comments

1. The Purported Benefits Of CALLS 2 Are Significantly Outweighed By The Potential Imposition Of Higher Total Charges Paid By Telephone Service Customers.

The recent proliferation of line item charges on long distance telephone bills has led to consumer confusion regarding the nature and pricing of these charges. Different carriers use inconsistent descriptive names for the items and use different methods of calculating the charges attributed to these items, which are fixed charges in addition to the per minute charge a customer pays. Recently, AT&T has begun to charge long distance service customers who make few or no long distance calls in a typical month a new fixed charge variously styled as "service fees," or "minimum monthly usage." Consumers have complained about these new and unexpected charges.

The CALLS 2 proposal simplifies and makes uniform the names used for the new line items. A companion proposal by two major IXCs, AT&T and Sprint, would agree not to impose minimum monthly charges or fees on their customers in certain circumstances.

However, in return for these two changes the CALLS 2 proposal would shift certain access charges IXCs now pay local exchange carriers ("LECs") from the IXCs to local telephone service customers, as two fixed monthly charges the customers would pay their LECs. One of the new charges would be rolled into and increase the subscriber line charge ("SLC") customers already pay their LECs. The other new charge on the local bill would be a line item for a "universal service fund," allocated to support telephone service in certain high cost areas and internet access at libraries and schools. Under CALLS 2 the SLC on the local telephone bill would increase at preset intervals over five years, *e.g.*, for residential customers, from an initial $4.35 per line per month in yearly stages to $6.50 per line per month.

Various commenters indicate that this ratcheting up of the SLC over the next five years would cost telephone service customers significantly more (the amount is uncertain) than they would pay if the current SLC and IXC access charge regime is maintained.[6] In return for the probable risk that customers will pay more under the CALLS 2 proposal than the status quo, the proponents offer a marginal bill simplification of indeterminant value.

In sum, the CALLS 2 proposal creates two line items on local telephone bills in exchange for local telephone service customers potentially paying higher economically unjustified charges. This is not a good bargain for consumers.

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[6] *See, e.g.*, Comments of the Competition Policy Institute on the Revised CALLS Proposal, CC Docket No. 96-262, CC Docket No. 94-1,CC Docket No. 99-259, CC Docket No. 96-45, Public Notice, DA 00-533, April 3, 2000, pp. 4 - 6.

2. Adoption Of CALLS 2 Would Undermine Reduction Of Access Costs.

The CALLS 2 proposal would shift the collection of certain local telephone equipment costs from access charges paid by IXCs to a flat monthly charge paid by local telephone service customers. The costs at issue are the rent IXCs pay local telephone company's for the use of equipment a local telephone company uses to connect its customers to the long distance network. Many commenters have observed that this shifting of access costs diminishes the incentive for IXCs to look for ways to make this link between the customer and the long distance network more efficient and therefore cheaper.[7] We agree.

Furthermore, shifting the assessment of access fees and universal service to the less competitive local market from the more elastic long distance market diminishes the ability of telephone subscribers to exert marketplace pressure for lower access fees.[8]

3. Consumers Will Be Best Served If Market Forces Determine Long Distance Service Prices.

Outside the CALLS 2 proposal but as a companion to it, AT&T and Sprint have submitted letters to the FCC indicating that as a quid pro quo for the Commission's adoption of the proposal, these IXCs would eliminate minimum usage fees for basic rate long distance

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[7] *See, e.g.*, Comments of the Competition Policy Institute on the Revised CALLS Proposal, CC Docket No. 96-262, CC Docket No. 94-1, CC Docket No. 99-259, CC Docket No. 96-45, Public Notice, DA 00-533, April 3, 2000, p. 2.

[8] *See, e.g.*, Supplemental Comments of the National Association of State Utility Consumer Advocates, CC Docket No. 96-262, CC Docket No. 94-1, CC Docket No. 99-259, CC Docket No. 96-45, April 3, 2000, p. 8-9.

customers as long as another major carrier does not employ these fees.[9] The long distance market has produced significant savings and new service offerings because consumers have been able to obtain market-based charges that reduce long distance prices. This proposal would distort the competitive market in long distance service and, moreover, is not necessary to ensure lower prices for long distance service.

4. The Record Is Not Adequate To Support Adoption Of CALLS 2.

Many commenters question whether the record in this proceeding contains sufficient or even any factual evidence supporting the CALLS 2 proposal.[10] We share those concerns and urge the FCC to require the CALLS proponents to file a study showing their estimates of the effect of adoption of their proposal on telephone service customers, in particular residential and small business customers, and to file all relevant data and work papers supporting their proposal, so that, the parties have a reasonable opportunity to examine that filing and comment on it.

5. Any Additional CALLS Member Proposals To The FCC Linked To This Petition Must Be Stated On The Record And Subject To Comment.

It has been suggested that CALLS members have made requests to the FCC that tie the outcome of the CALLS 2 proposal to other pending proceedings that are not a part of the record

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[9] Many commentators have questioned whether the AT&T and Sprint commitments would produce actual savings for consumers and also have identified glaring loopholes concerning the enforceability of the commitments. *See, e.g.*, Supplemental Comments of the National Association of State Utility Advocates, CC Docket No. 96-262, CC Docket No. 94-1, CC Docket No. 99-259, CC Docket No. 96-45, Public Notice, DA 00-533, April 3, 2000, p. 4. We share those concerns, but see the retreat from market-based pricing as the fundamental problem with the proposal.

[10] *See, e.g.*, MCI Worldcom Comments on the Modified CALLS Plan, CC Docket No. 96-262, CC Docket No. 94-1, CC Docket No. 99-259, CC Docket No. 96-45, April 3, 2000, p. 3.

of this proceeding.[11] The New York State Attorney General's Office is particularly concerned about any extra-record requests tying CALLS 2 to the FCC's audits of the GTE and regional Bell operating company property records. These audits could lead to significant telephone service price reductions for consumers.[12] If an agreement concerning FCC treatment of resolutions of these audits is to be an additional quid pro quo for the relief requested in the CALLS 2 petition, that should be made part of the record and parties should have an opportunity to comment.

Conclusion

The CALLS 2 proponents should be commended for attempting to resolve four open Commission proceedings, each encumbered with longstanding and important policy concerns in

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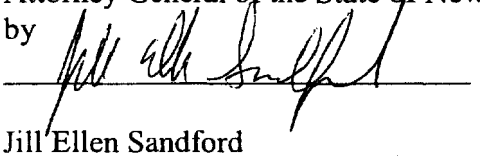
[11] *Id.*, p. 5.

[12] Comments of Eliot Spitzer, Attorney General of the State of New York, *In the Matters of Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit et al.*, CC Docket No. 99-117 (June 4, 1999).

a unified proposal. However, the Commission should reject the CALLS 2 proposal in its current form as it fails to offer telephone service customers benefits that justify the risk of higher, unjustified and unavoidable charges, and reduces the competitive pressures for decreasing access charges.

Respectfully submitted,
Eliot Spitzer
Attorney General of the State of New York
by



Jill Ellen Sandford
Assistant Attorney General

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Assistant Attorney General In Charge
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Charlie Donaldson
Assistant Attorneys General
ofcounsel
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New York, NY 10271
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Fax: 416-8877
jill.sandford@oag.state.ny.us