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MAY 23, 2000

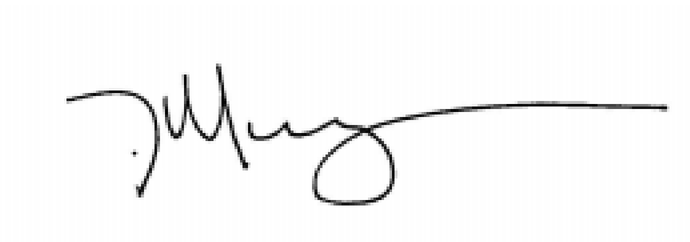
Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
TW-A325
445 Twelfth Street, SW
Washington, DC 20554

Re: Ex Parte in *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

Ms. Salas,

An Ex-Parte letter in the above-captioned proceeding was delivered today to Chairman Kennard, Commissioner Tristani, Commissioner Ness, Commissioner Powell and Commissioner Furchtgott-Roth, with copies to Kyle Dixon, Sarah Whitesell, Dorothy Atwood, Rebecca Beynon and Jordan Goldstein. A copy of the letter is attached hereto.

Sincerely,



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MAY 23, 2000

Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, SW.
Washington, DC 20554

Re: Ex Parte in *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

Chairman Kennard,

We have learned that, despite the substantial waste associated with continued billing of the Multi-line Business PICC (MLB PICC) by long distance carriers, some have defended this practice by arguing that ILEC direct billing of the MLB PICC would (a) result in excessively high MLB PICCs in high cost areas and (b) put ILECs at a competitive disadvantage relative to CLECs.

On behalf of the Ad Hoc Telecommunications Users Committee (Ad Hoc), we submit this letter to demonstrate that the foregoing arguments do not justify retention of long distance carrier billing of the MLB PICC. As for the argument that ILEC billing of the MLB PICC would work a hardship on businesses that operate in high cost areas, Ad Hoc notes that the long distance carriers bill their customers PICCs that are at, or very close to, the maximum MLB PICC that ILECs may bill. In other words, even in high cost areas, the ILECs' billed MLB PICCs may not exceed $4.31/line/month. MCI and Sprint currently assess an MLB PICC of approximately $3.97/line/month and $4.32 /line/month, respectively on all users, regardless of whether they are in a high cost area. AT&T's MLB PICC is $3.95/line/month. Multi-line business customers enjoy no advantage from the long distance carriers' nationwide rates. Deaveraging the MLB PICC through ILEC direct billing of the MLB PICC, however, would give business users the benefit of the lower MLB PICC for the vast majority of lines, and cost business users in high cost areas very little, if anything, compared to the MLB PICCs charges they currently pay to the long distance carriers. Accordingly, requiring ILEC billing of the MLB PICC will not economically disadvantage business users.

The claim that ILECs would be competitively disadvantaged relative to CLECs if the ILECs must direct bill the MLB PICC also rings hollow. CLECs only account for about three percent of switched access minutes. If the MLB PICC really is going to go away in short order, the CLECs with only three percent of the switched access service market will not present a material competitive threat if the Commission requires ILEC billing of the MLB PICC. Moreover, the claim that ILECs will be materially competitively disadvantaged because of the MLB PICC ignores the reality that ILECs will win or lose MLB customers based on multiple factors, e.g., all charges for switched services, special access services, virtual network services, and packet switched services, as well as service quality and account support and contractual terms and conditions. As knowledgeable buyers, Ad Hoc submits that proponents of continued long distance carrier billing of the MLB PICC greatly exaggerate the competitive implications of ILEC direct billing of the MLB PICC. Multi-line business customers should not be compelled to pay unnecessarily inflated PICCs to protect ILECs from what is at most a very small competitive risk.

If the competitive risk is this small, why are the ILECs resisting direct billing of the MLB PICC? There are several possible reasons. First, the ILECs probably do not want to face *any* additional competitive risk, regardless of the economic dead weight that they impose on society. Second, they may be recovering more through MLB PICCs than is proper. The long distance carriers have stated that their prescribed line counts do not match the line counts implicit in the ILECs' PICC billings. If such is the case, one possibility is that the ILEC counts are inflated. The ILECs would not be able to inflate PICC line counts if they direct bill because the end users will know how many lines they have. There will be no confusion over line counts and no disputes over middlemen (the long distance carriers in this case) mark-ups. Finally, direct billing would prevent long distance carriers from imposing the PICC on lines pre-subscribed to CLECs. We believe that such billing occurs simply because long distance carriers may not know which of their pre-subscribed lines are CLEC lines rather than ILEC lines. One of these explanations must be correct because ILEC direct billing of the MLB PICC would actually reduce the alleged competitive disadvantage because ILEC direct billed PICCs would in virtually every instance be lower than the PICC billed by long distance carriers.

At bottom, ILECs would suffer a "competitive disadvantage" under direct billing of the MLB PICC only if existing billing practices do not operate as they are supposed to. In fact, if ILECs are correctly billing PICCs to IXCs, and if IXCs are correctly billing PICCs to their end user ILEC customers (and not to IXC customers who take local service from CLECs), then the elimination of the IXC markup and national rate averaging would actually work to improve the competitive position of the ILECs. The ILECs' position thus seems premised upon persistent mis-billing (and, more specifically, over-billing) both by themselves and by IXCs. This hardly provides a basis for acceptance of the ILECs' position on this issue.

The proponents of continued long distance carrier billing of the MLB PICC do not dispute that the MLB PICCs charged by long distance carriers are marked-up on average at least $1.50 per line per month. The economic waste produced by this needless markup is indefensible. The Commission cannot sanction continuance of the waste, regardless of the CALLS deal. The arguments advanced by those who wish not to disturb the "deal" are without merit.

Sincerely,

James S. Blaszak
Counsel for the Ad Hoc
Telecommunications Users Committee

Cc: Ms. Dorothy Atwood
Ms. Sarah Whitesell
Mr. Kyle Dixon
Ms. Rebecca Beynon
Mr. Jordan Goldstein

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