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August 30, 2000

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AUG 30 2000

Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Request for Emergency Relief of the Rural Independent Competitive Alliance
Enjoining AT&T Corp. From Discontinuing Service Pending Final Decision
CC Docket No. 96-262
Ex Parte Meeting

Dear Ms. Salas:

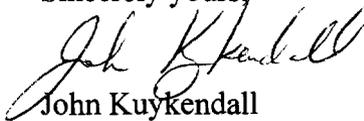
On August 29, 2000, David Cosson and John Kuykendall of Kraskin, Lesse & Cosson, LLP met with Jane Jackson and Anthony J. DeLaurentis of the Common Carrier Bureau to discuss the Rural Independent Competitive Alliance's ("RICA's") Request for Emergency Relief which was placed on Public Notice for comment on May 15, 2000. The comment period ended on June 29, 2000.

In the course of the meeting, RICA's representatives discussed the advanced facilities-based services that RICA members are providing to rural communities, how that service is being jeopardized by AT&T's discontinuance of service to RICA members' subscribers, how AT&T's discontinuance of service violates the Communications Act and ways in which the public interest strongly favors an order maintaining the status quo. A letter to Ms. Dorothy Atwood containing a suggested definition of a rural CLEC that was filed ex parte with the Commission on August 4th was also discussed.

In addition, the RICA representatives provided Ms. Jackson and Mr. DeLaurentis with copies of letters sent by AT&T to Cumby Telephone Cooperative, Inc., dated June 12, 2000, and to the Texas Public Utility Commission dated July 11, 2000 (see Attachments).

Please contact me if there are any questions regarding this matter.

Sincerely yours,


John Kuykendall

Attachments

cc: Jane Jackson
Anthony J. DeLaurentis

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RURAL INDEPENDENT COMPETITIVE ALLIANCE
August 2000

RICA is composed of Competitive Local Exchange Carriers (CLECs) affiliated with rural telephone companies.

- RICA members bring modern communications and information services to rural areas previously neglected by large incumbent carriers.
- RICA members concentrate on facilities-based competition to assure the most efficient and effective technology is deployed.

Expansion, or even continuation of these public benefits is not possible if AT&T is allowed to continue unilaterally withdrawing long distance service from rural CLEC subscribers if it determines that the CLEC's access rates are above the level of the large incumbents.

- RICA members compete with large incumbent LECs whose prices benefit from both averaging with urban areas and from a lack of current investment in rural areas.
- RICA members have generally priced access at levels comparable to their affiliated rural telephone companies. Larger companies with which they compete have lower access rates because of their ability to spread the higher cost of serving rural areas with their lower cost urban base.

AT&T's discontinuance of service violates the Communications Act in the following ways:

- AT&T did not obtain authority under Section 214(a) to discontinue service;
- is contrary to its duty to interconnect in Sections 201(a) and 251(a);
- is unjustly discriminatory in violation of Section 202(a); and
- is inconsistent with its own tariffs in violation of Section 203(c).

The public interest strongly favors an order maintaining the status quo:

- AT&T's practice will eliminate the only viable competitor for the local access services of its CATV subscribers
- Harm to RICA's members is irreparable
- Harm to AT&T is unlikely and in any event, negligible
- Failure to act promptly will encourage "self-help" actions which the Commission has consistently deplored
- For reasons similar to AT&T's, Sprint has refused to pay a portion of the lawfully tariffed charges of the Rural CLECs and, from the comments filed in the proceeding, it appears that Worldcom may also follow suit if AT&T is allowed to persist in its "self-help" measures.

In response to RICA's Request for Emergency Relief filed on February 18, 2000, the Commission issued a Public Notice requesting comment. Public comments were due by June 14th with Reply Comments due June 29th. Prompt resolution of this issue is necessary to continue the benefits that communications competition has brought to the communities served by the Rural CLEC members of RICA.



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CLEC Contract Development and Management

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June 12, 2000

Karen Zimmerman
Cumby Telephone Cooperative Inc.
200 Frisco St.
P.O. Box 619
Cumby, TX 75433

Re: Invoices for Switched Access Services

Dear Ms. Zimmerman:

AT&T Corp. ("AT&T") is in receipt of invoices from Cumby Telephone Cooperative Inc. ("Cumby"), purportedly for switched access services.

AT&T has not ordered originating or terminating switched access services from Cumby. Therefore, AT&T is not obligated to pay Cumby for the access services on the invoices.

We hereby instruct Cumby to immediately cease routing all traffic to AT&T's network, including, but not limited to, 0+, 1+, 500+, 700+, 8YY+, 900+ and all AT&T associated 10-10-XXX traffic. In addition, Cumby should not complete any calls terminating from AT&T's network that are intended for Cumby's local exchange customers. Moreover, we instruct Cumby not to presubscribe any of its local exchange customers to AT&T's interexchange services. To the extent that Cumby has improperly presubscribed its customers to AT&T, please notify all such customers immediately that Cumby is not authorized to presubscribe customers to AT&T and assist them in selecting another interexchange carrier who has provided Cumby with the appropriate authorization or another local exchange provider who is authorized to presubscribe its customers to AT&T's interexchange services.

We trust that Cumby will immediately comply with AT&T's instruction not to presubscribe any of its customers to AT&T's long distance service. In the event that Cumby does not for any reason comply with this instruction, please be advised that, although AT&T is not obligated to pay for access services it did not order, AT&T is legally obligated to bill the appropriate party for use of AT&T's long distance services. Moreover, AT&T must bill the appropriate party to prevent fraudulent use of its network. In order to do so, AT&T needs customer account records from Cumby through the CARE or BNA processes for any use of AT&T's long distance services by Cumby's local exchange customers provided through switched access services not ordered by AT&T. While AT&T has no choice but to accept these CARE records from Cumby or request BNA information, such action in no way may be construed as the order or purchase of access service from Cumby.

AT&T will hold Cumby liable for all losses, damages and costs arising out of Cumby's improper and unauthorized routing of traffic to AT&T's network.

If Cumby would like to discuss the possibility of mutually acceptable arrangements between the parties for Cumby's provision of access services to AT&T, it will be necessary for Cumby to execute the enclosed Confidentiality and Pre-Negotiation Agreement. AT&T's participation and willingness to engage in discussions with Cumby are not to be considered an order, acceptance or purchase of originating and/or terminating switched access services from Cumby by AT&T or a suspension, interruption, termination or revocation of AT&T's instruction to Cumby to cease routing traffic to AT&T's network, to not complete calls from AT&T's network, and to stop presubscribing Cumby's local exchange customers to AT&T's interexchange services.

Very truly yours,

A handwritten signature in black ink, appearing to read "William J. Taggart III". The signature is written in a cursive style with a large, stylized initial "W".

William J. Taggart III

cc: Garry I. Miller
Brian Moore



Catherine Fox-Hessler
Law & Government Affairs
Vice President - Regulatory

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July 11, 2000

Chairman Pat Wood III
Commissioner Judy Walsh
Commissioner Brett Peckman
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, TX 78711

Re: FUC Docket No. 22385; Complaint of XIT Telecommunications and Technology, Inc. Against AT&T Corporation and 22386; Complaint of Tech Telephone Company, LP Against AT&T Corporation

Dear Commissioners:

At the June 29 Open Meeting you requested that AT&T submit a letter identifying any CLEC exchanges where AT&T, by virtue of disputes over CLEC access charges, is not originating or terminating calls by its long distance customers. AT&T appreciates your interest in this topic and the concurrent opportunity it provides us to describe for you the very significant problems the LDC industry, and thus ultimately the end user customer, is facing and will continue to face on this subject.

To your immediate question, there are no such exchanges. AT&T cannot block CLEC traffic to or from its long distance network. At this time, the technical capability to block those calls resides only in the switches of the LEC (CLEC or ILEC) that serves the customer, not in the long distance network. However, we are not aware of any CLEC that is currently blocking AT&T traffic to its customers.¹

This overarching control that the LEC exerts over the customer relationship between AT&T as an LDC and its Long Distance customers is at the heart of the problem leading to the complaints in question. In the normal situation where an AT&T residential LD customer is also the local customer of an ILEC, a CLEC may win that customer's local business from the ILEC by competing on the basis of price and quality for local services, vertical features, and possibly Internet services. The CLEC does not compete for the end user customer's business on the basis of the access service price or quality that is provided to the customer's LDC. However, when the customer switches its local service to the CLEC it automatically switches the toll access provider role to the CLEC as well -- in truth, in most cases the LDC will not even know about the switch to the CLEC until the CLEC submits its first access bill to AT&T, long after the access service has been provided. The PICad LDC, particularly in the residential market, generally has no choice in the matter and, if it does not act, it is compelled to take whatever quality of switched access service at whatever price the CLEC chooses to provide if the LDC is to provide LD service to that customer.

Like any service provider, however, we must be able to maintain some level of protection with respect to both the quality and the price of the LD service provided, and thus the CLEC's access service utilized to provide the LD service. In the competitive commercial environment, AT&T believes that the

¹ It is also unreasonably burdensome to require AT&T to block traffic from a CLEC to AT&T's network. *In MGC Communications v. AT&T Corp.*, 14 FCC Red 11647, 11655 n.32 (Com. Carr. Bur. 1999), *aff'd*, 15 FCC Red 308 (FCC 1999), the FCC recognized that AT&T is entitled to cancel originating switched access service, and that AT&T is not required to block traffic in order to effectuate such a cancellation.

only effective way for an IXC to achieve this is to rely on its commercial right to an agreement with the CLBC, before AT&T pays for the access service the CLBC provides. A position that the IXC must pay for service at whatever terms and conditions the CLBC chooses is not commercially reasonable and puts the IXC at the mercy of an entity that essentially has a monopoly as to the provision of switched access to the customer.

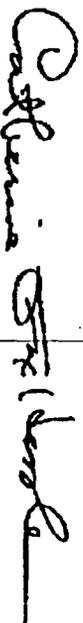
Wo can assure you that it is AT&T's hope that it is able to serve any customer that wishes to purchase services from AT&T. AT&T and Sage engaged in mutual, good faith negotiations and settled the Sage complaint against AT&T (Dir. No. 22139) with an access agreement through which AT&T provides LD services to Sage's local customer. AT&T and TechTel and XT&T continue mutual and good faith negotiations in Dir. 22385 and 22386 with the hope and intention of reaching access agreements to settle those disputes as well.

In Texas, the implementation of Rule 26.223 will somewhat mitigate the price concern. Until the rule is implemented, however, interstate access price issues remain because the safe harbor caps apply only to specified rate elements. Currently, additional elements such as ICAC, information surcharge, etc. have taken the aggregate access charge levels far even safe harbor complaint CLBCs well above the safe harbor levels. Even after the rule is implemented, significant customers will remain because the Intel/ATA PIC process does not distinguish between interstate and intrastate services. An Intel/ATA LD PIC defines the IXC for both interstate and intrastate services. Because there is no interstate access rate cap for CLBCs, AT&T will continue to have concerns about interstate switched access rates, and may need to take steps to avoid purchasing interstate switched access services.

As I mentioned above, the rule addresses price concerns only. If AT&T is compelled to take service from CLBCs regardless of whether an agreement exists, AT&T will be compelled to take service which may be inferior and reflect poorly on AT&T in the customer's eyes or which may result in the loss of long distance revenues. Operational issues such as timely and accurate provision of customer account and usage information in a format that is useful for purposes of billing the LD customer, customer care, fraudulent access to the long distance network by CLBC customers, repair, etc. will be at the discretion and control of the CLBC and without an effective means of control by AT&T. These types of issues can be and routinely are worked out in the market, if the market is permitted to operate. AT&T's actions in seeking an agreement with the CLBC as a condition to paying for the access services the CLBC provides, is an attempt to have the market work as it should.

Thank you for your interest.

Sincerely,



Catherine Fox-Hessler
Vice President - Regulatory

CC: Irish Dolosa, Director of Operations
Paula Mueller, ORA
Steve Davis, OPD
All Parties of Record