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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

99-68

September 28, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S. W. – Room TWB-204
Washington, D. C. 20554

Dear Ms. Salas:

On Wednesday, September 27, 2000, Steve Garavito and the undersigned, of AT&T, met with Kyle Dixon, Legal Advisor to Commissioner Michael Powell. The purpose of the meeting was to discuss AT&T's filed comments in the above-referenced proceeding. The attached presentation was used to facilitate our discussion.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206 of the Commission's rules.

Sincerely,

ATTACHMENT

cc: K. Dixon

Recycled Paper

Summary

- ISP-bound calls are interstate in nature

- They should be subject to compensation
  - under sec. 251(b)(5); or
  - pursuant to a federal rule

- State commissions should determine level of compensation under FCC guidelines
  - same compensation as other local voice and data calls
  - no demonstrated cost differences

ISP-Bound Traffic Is Interstate in Nature

- The D.C. Circuit did not question the validity of the Commission's end-to-end analysis for determining jurisdiction.
- The commenters generally agree on interstate jurisdiction.
  - But, jurisdictional analysis does not resolve whether reciprocal compensation is due.

ISP-Bound Traffic Is Covered by Sec. 251(b)(5)

- Statutory obligation applies to "transport and termination of *telecommunications*."
- Commission's "local" call limitation was intended to protect access charge transition.
  - ISP-bound traffic has never been subject to access charges.
- ISP-bound traffic has always been treated as local, and ESPs have always been treated as end users.

If Sec. 251(b)(5) Does Not Apply, the Commission Should Adopt a Federal Rule Requiring Compensation

- LECs use the same networks to deliver ISP-bound traffic as for other voice and data traffic.
- LECs incur costs to deliver such traffic.
- No one has demonstrated any categorical cost differences to justify discriminatory treatment of ISP-bound traffic.

The Commission Should Require Compensation for ISP-Bound Traffic

- Under Sec. 251(b)(5); or
- As a federal compensation rule outside Sec. 251(b)(5)
  - The rates terms and conditions for the transport and termination of ISP-bound traffic between any two carriers in a state shall be the rates, terms, and conditions established or approved by the state commission in such state (or the parties through negotiation) for the transport and termination of local traffic between two carriers, in accordance with Section 252 of the Act.

Reciprocal Compensation for ISP-Bound Traffic Is Sound Public Policy

- The LEC delivering the call is entitled to compensation for use of its network.
  - The customer placing the call is the cost-causer.
  - ILEC costs to originate ISP-bound calls are irrelevant.
- Reciprocal compensation obligations have forced ILECs to adopt transport and termination charges which more accurately reflect costs.
- Should a need exist to adopt a different rate structure applicable to <u>all</u> traffic, state commissions may do so.