

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter Of)	
)	
Jurisdictional Separations Reform)	CC Docket No. 80-286
And Referral to the Federal-State)	
Joint Board)	DA 00-1865

REPLY COMMENTS OF JOHN STAURULAKIS, INC.

John Staurulakis, Inc. (“JSI”) hereby replies to comments filed in the above-captioned proceeding. As a consulting firm that performs numerous annual jurisdictional cost studies on behalf of non-price-cap Incumbent Local Exchange Carriers (“ILECs”), JSI is an interested party in this proceeding.

I. INTRODUCTION

The comments filed in this proceeding demonstrate the importance and impact that a freeze of jurisdictional separations factors will have on both price cap and rate-of-return carriers. While most respondents indicated support for a five-year freeze as recommended by the Federal State Joint Board (Joint Board), many concerns were expressed regarding the treatment of Internet usage in the development of frozen factors. JSI continues to believe that prior to the freezing of all usage-sensitive factors, the Commission allow rate-of-return carriers to exclude Internet usage based on actual measurement or through use of a default amount equal to 80 percent of the local DEM.

II. THE COMMISSION SHOULD ALLOW RATE OF RETURN CARRIERS TO ADJUST ALL USAGE SENSITIVE FACTORS TO EXCLUDE INTERNET TRAFFIC

Several respondents in this proceeding indicate that there should be no adjustment to the separations factors of a company prior to the establishment of a freeze.¹ In their comments, WorldCom claims that “there is no evidence that the ILECs’ current DEM factors have had any impact on consumers” while BellSouth states that “freezing separations factors at current levels, without any adjustment to the local DEM factor, provides a reasonable allocation of costs in the aggregate.” Many price-cap regulated companies like BellSouth and Verizon have maintained that their jurisdictional allocation factors remain fairly consistent from year to year and as a result, there is no need to make any adjustments to these factors prior to implementing a freeze. Instead, the price-cap companies hold the view that immediate simplification with the eventual elimination of the separations rules should be the order of the day. As for the interexchange carriers, they object to any reduction in the local DEM which would lead to more costs being assigned to the interstate jurisdiction.

While JSI does not believe that it is necessary to adjust the separations factors of price-cap carriers prior to implementation of a freeze, JSI maintains that rate-of-return carriers should be allowed to adjust all usage sensitive factors to exclude the impact of Internet usage prior to a freeze being imposed. Information gathered by NECA for the 1998 study year indicated that Internet usage stood at approximately 18 percent of carrier traffic.² Statistics provided by SBC show that Internet usage has approximately doubled every year, from 1997 through 1999.³ There remains little doubt that Internet usage has had an impact on the jurisdictional allocation factors of rate-of-return carriers, especially in 1998 and 1999. Therefore, it is extremely important for the Commission to give all rate-of-return carriers the opportunity to adjust all usage sensitive factors to exclude Internet usage prior to implementing a freeze.

¹ See comments of BellSouth at 4, AT&T at 4, WorldCom at 4, Verizon at 1.

² See NECA comments, page 7.

³ See SBC Communications, Inc. comments, Exhibit B, Page 9.

III. AWAITING A DECISION WITH RESPECT TO THE JURISDICTIONAL NATURE OF INTERNET TRAFFIC WILL NOT LEAD TO SIMPLIFICATION IN THE SEPARATIONS PROCESS

JSI urges the Commission to ignore the Joint Board's recommended decision regarding the need for a ruling as to the jurisdictional nature of Internet traffic before allowing LECs to adjust their local DEM factors. JSI maintains that forcing LECs to await a decision that Internet traffic is interstate before allowing an adjustment in a LEC's local DEM factor will create a continuing need for carriers to perform annual traffic studies in order to identify the amount of Internet usage to exclude in the event that a decision is made to treat Internet usage as interstate traffic. For example, suppose that the Commission orders a freeze of factors based on calendar year 1999 data and that a decision is made in 2002 that Internet traffic is interstate in nature. Without the availability of current traffic studies, LECs will not have the ability to reflect accurate levels of Internet usage when adjusting their local DEM factor. Instead, LECs will have to adjust their local DEM factors based on out-of-date (1999) information. Moreover, should the Commission find (once again) that Internet usage is indeed interstate, then the issue of retroactivity is sure to come up regarding rate-of-return carriers and settlements with NECA. In order to avoid all the potential controversy, the Commission should allow rate-of-return carriers to adjust all usage sensitive factors to exclude Internet usage prior to ordering a freeze in factors.

IV. THE DEFAULT PERCENT FOR ADJUSTING THE LOCAL DEM SHOULD BE 80 PERCENT INSTEAD OF 95 PERCENT

Many respondents in this proceeding agree that the 95 percent default figure for adjustment to the local DEM recommended by the Joint Board is inadequate.⁴ In its comments, the Vermont Public Service Board correctly points out that by the middle of a five-year freeze period (July 1, 2003), Internet usage will probably account for approximately 29 percent of local DEM based on a conservative annual growth estimate in Internet traffic of 9 percent.⁵ In its comments, SBC provided data showing that 1999

⁴ See comments of TANE at 3, GVNW at 9, Pennsylvania Public Utility Commission at 9, Vermont Public Service Board at 5,

⁵ See comments of Vermont Public Service Board, page 5.

Internet usage as a percent of total local DEM was approximately 32 percent.⁶ Information provided by JSI in its comments on behalf of two average schedule companies indicated that Internet usage accounted for approximately 54 percent of total local usage.⁷ Based on the data provided, there appears to be no quantifiable justification for the establishment of a 95 percent default factor. Clearly, a default factor of 80 percent is more in line with the level of Internet usage currently being classified as local by the typical rate-of-return carrier.

V. CONCLUSION

Clearly, the level of dial-up Internet usage currently being classified as local for purposes of developing jurisdictional separations factors is significant and growing. Information provided by several parties indicates that a need exists for an immediate reduction in the local DEM and all other usage-based factors for the impact of Internet usage, prior to implementation of a factor freeze. Moreover, the default factor of 95 percent recommended by the Joint Board should be rejected by the Commission as inadequate and a more realistic default factor of 80 percent should be ordered.

Respectfully submitted,

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⁶ See comments of SBC Communications, Exhibit B, page 9. Calculation of 32 percent was based on the total of ISP minutes for Indiana, Illinois, Michigan, Ohio, and Wisconsin compared to total local minutes for the same five states.

⁷ See comments of JSI, page 7.

CERTIFICATE OF SERVICE

I, Emmanuel Staurulakis, do hereby certify that on this 10th day of October, 2000, a copy of the foregoing "Comments of John Staurulakis, Inc.", were mailed first class, postage prepaid, to the individuals listed below.

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