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ANN BAVENDER*
ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR
PAUL J. FELDMAN
FRANK R. JAZZO
ANDREW S. KERSTING
EUGENE M. LAWSON, JR.
SUSAN A. MARSHALL*
HARRY C. MARTIN
RAYMOND J. QUIANZON
LEONARD R. RAISH
JAMES P. RILEY
ALISON J. SHAPIRO
KATHLEEN VICTORY
JENNIFER DINE WAGNER*
HOWARD M. WEISS
ZHAO XIAOHUA*

* NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET

ARLINGTON, VIRGINIA 22209-3801

(703) 812-0400

TELECOPIER

(703) 812-0486

INTERNET

www.fhh-telcomlaw.com

RETIRED MEMBERS
RICHARD HILDRETH
GEORGE PETRUTSAS

CONSULTANT FOR INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS
SHELDON J. KRYS
U. S. AMBASSADOR (ret.)

OF COUNSEL
EDWARD A. CAINE*
DONALD J. EVANS*
MITCHELL LAZARUS
EDWARD S. O'NEILL*

WRITER'S DIRECT

(703) 812-0403
feldman@fhh-telcomlaw.com

January 8, 2001

BY HAND
Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW, Room TWB204
Washington, D.C. 20554

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JAN - 8 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Consolidated Reply of Roseville Telephone Company to Oppositions to Petition for Waiver CC Docket No. 96-45

Dear Ms. Salas:

On behalf of Roseville Telephone Company, I am hereby filing an original and four copies of its Consolidated Reply to Oppositions filed against the Petition for Limited Waiver of Section 54.309 in the above-captioned proceeding.

If there are any questions regarding this matter, please contact me.

Sincerely,

Paul Feldman

Paul J. Feldman
Counsel for Roseville Telephone Company

PJF:jpg

Enclosures

cc: Mr. Jack Day
Mr. Greg Gierczak
Mr. Glenn Brown
Certificate of Service

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Before the
Federal Communications Commission
Washington, D.C. 20554

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JAN - 8 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Petition of Roseville Telephone Company	)	CC Docket No. 96-45
	)	
For a Limited Waiver of Section 54.309 of The Commission's Rules	)	

**CONSOLIDATED REPLY OF
ROSEVILLE TELEPHONE COMPANY TO
<u>OPPOSITIONS TO PETITION FOR WAIVER</u>**

FLETCHER, HEALD & HILDRETH, PLC
1300 North 17th Street
11th Floor
Arlington, Virginia 22209
(703) 812-0400

January 8, 2001

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Federal Communications Commission
Washington, D.C. 20554

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Telephone Company	)	CC Docket No. 96-45
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For a Limited Waiver of	)	
Section 54.309 of	)	
The Commission's Rules	)	

CONSOLIDATED REPLY OF
ROSEVILLE TELEPHONE COMPANY TO
OPPOSITIONS TO PETITION FOR WAIVER

Roseville Telephone Company ("Roseville") hereby replies to the oppositions filed against the Petition for Limited Waiver of Section 54.309, filed by Roseville on November 13, 2000 in the above-captioned proceeding (hereinafter, "Petition"). Two parties, the California Public Utilities Commission and AT&T Corp., filed oppositions to Roseville's Petition. [1] However both fillings appear to miss the point of the Petition, and they provide no basis for denying the relief requested therein by Roseville.

I. Introduction

In its Ninth Report and Order in CC Docket 96-45, the Commission established a new universal service support mechanism for the largest of the

[1] "Opposition by California to Petition for Limited Waiver", filed by the People of the State of California and the California Public Utilities Commission ("CPUC") on December 28, 2000; and "Comments of AT&T Corp. in Opposition to The Roseville Petition for a Limited Waiver", filed December 29, 2000.

local exchange companies.[2] This new mechanism bases universal service support on the forward-looking economic cost of these companies as determined by a proxy model. This new mechanism is inappropriate for a company such as Roseville because:

- Roseville is the smallest of the "non-rural" companies by a staggering margin. In terms of lines served Roseville is 1.6% the size of the next smallest "non-rural" company (Sprint) and 0.2% the size of the largest (Verizon). Roseville has 2 central offices while Sprint and Verizon have 1,371 and 6,248 central offices, respectively.

- The proxy model uses a single nationwide set of cost inputs based upon the cost structure and scale economies of the largest of the holding companies.

- The Rural Task Force has found that the proxy model is inaccurate at the individual wire center level, and is inappropriate for LECs that serve relatively few wire centers.

- Due to the operation of the Commission's prior Rules, Roseville is significantly more dependent on universal service support than the other "non-rural" holding companies.

- Roseville is rate-of-return regulated, all of the other "non-rural" companies operate under the Commission's price cap rules.

In the Tenth Report and Order in CC Docket 96-45, the Commission determined that the dividing point between the large and small LECs for purposes of high-cost support would be the "non-rural/rural" distinction as defined in Section 3(37) of the Communications Act.[3] Significantly, therein at para. 458, the Commission also found that "...there is no statutory requirement that it do so". Roseville filed a Petition for Reconsideration of the Commission's Tenth Report and Order on December 30, 1999. That Petition for Reconsideration ("PFR") seeks changes in the new support mechanism that would result in

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[2] 14 FCC Rcd 20432 (1999).

Roseville remaining under the same support rules as the universe of "rural" carriers. To date, the Commission has not ruled on Roseville's PFR.

On December 8, 2000 the Commission released the Thirteenth Report and Order in CC Docket 96-45 (FCC 00-428). This Report and Order eliminated the "hold-harmless" provisions established in the Ninth Report and Order, and begins the phase-out of support to "non-rural" carriers, such as Roseville, who qualified for support under the old rules, but would receive no support under the new mechanism.

Thus, it is important to remember that the waiver sought by Roseville in this proceeding was filed for the limited purpose of delaying the application of the new mechanism to Roseville, only until such time as the Commission rules on Roseville's PFR. The waiver sought is thus limited in both time and impact. However, neither the CPUC nor AT&T appears to recognize or address the limited nature of the waiver, and accordingly, they provide no basis for denying the waiver sought by Roseville. Rather, their arguments address the issues in the underlying PFR. However, as shown below, the Oppositions do not provide a basis for denying Roseville's PFR, either.

II. The Concerns of the CPUC are Irrelevant and Misplaced.

In its Opposition, the CPUC does nothing more than attach a copy of its February 3, 2000 Opposition to Roseville's Petition for Reconsideration, thus restating concerns which are irrelevant and inapplicable to the waiver sought by Roseville. Roseville rebutted these concerns as applied to the PFR in its

[3] 14 FCC Rcd 20156 (1999).

February 22, 2000 Reply to Oppositions in this proceeding. That rebuttal is restated in summary form below.

The CPUC's core concern apparently is that if it is granted "rural" status for the purpose of high-cost support, Roseville will somehow use this to seek "rural" status for the purposes of Section 251, and thus avoid its interconnection responsibilities with competing carriers. The CPUC's concerns are greatly misplaced. First, in the PFR, Roseville is not seeking "rural" status pursuant to Section 251(f) of the Act. Rather, it is merely seeking to change the demarcation point between "large" and "small" LECs for the purposes of federal high-cost support. Second, Roseville is actively meeting its interconnection obligations, and currently interconnects with ten CLECs who are serving customers in Roseville's territory. Third, the CPUC's expressed concern is inconsistent with the plain language of 251(f). Because Roseville serves less than two percent of the Nation's access lines, it could petition for a modification or suspension of its interconnection obligations under Section 251(f)(2), if it wanted to, regardless of how the Commission rules on Roseville's PFR. In such a case, however, the CPUC is empowered to review the facts set forth in the petition, and <u>make its own evaluation</u> as to whether to grant the Section 251(f)(2) petition. Thus, the grant of the PFR will not alter Roseville's interconnection obligations, or force the CPUC to alter those obligations.

The CPUC also states that "Roseville's plea that it be treated like a rural carrier is incompatible with its request, granted by the CPUC, to be treated as a competitive carrier for state ratemaking purposes under the CPUC's New

Regulatory Framework (NRF)". Opposition at page 4. This argument is irrelevant. Currently four California LECs operate under the NRF: Pacific Bell, GTE, Roseville and Citizens Utilities. Citizens Utilities, however, is classified under the Section 3(37) guidelines as a "rural" carrier. Thus even if Roseville were requesting "rural" designation, this would have no impact on its NRF status under California regulation. Similarly, a carrier's status under NRF should have no impact on federal policies for high-cost support. There is no necessary connection between the two.

Finally, Roseville is puzzled by the CPUC's discussion of rate shock. No one likes to see customers' rates go up, particularly as competition expands in the local telephone market. From time-to-time, in order to meet obligations to invest to serve customers, and to have earnings adequate to meet the needs of shareholders, regulated telephone companies such as Roseville must file for rate increases with their state regulator. This Roseville did in 1995. The CPUC awarded a rate increase less than that which had been proposed by Roseville, and in doing so explicitly balanced Roseville's financial needs against the potential for harmful rate shock that the CPUC thought could arise from granting the entire proposed rate increase. Yet, when Roseville follows the CPUC's lead and expresses concern about the rate shock that would result from the loss of federal high-cost support, the CPUC appears to trivialize that concern.

III. AT&T's Concerns are Irrelevant and Unpersuasive.

AT&T rests its Opposition primarily on its premise that "Roseville identifies no 'special circumstances' that warrant treating Roseville differently from the other non-rural LECs."[4] In support of this they state:

> "Roseville asserts that it should be excepted from the Commission's rules on the grounds that it is unique among the non-rural LECs. Roseville points out that it is (1) one of the smallest non-rural LECs in terms of the number of loops in its study area; (2) not affiliated with a large holding company; and (3) has two central offices. None of these facts remotely justifies an exemption from the Commission's rules."[5]

What AT&T misses is that the special circumstances upon which Roseville's waiver are based are not primarily the issues cited above, but rather the fact that Roseville has a pending PFR that, if granted, would obviate the application of the new support mechanism and its related Rules to Roseville. However, even as applied to Roseville's PFR, AT&T's arguments are unpersuasive, as discussed below.

AT&T states on Page 3 of their Opposition:

> "There will, of course, always be a 'smallest' non-rural LEC, but that cannot justify ignoring the rural LEC definition mandated by Congress."

To this observation we would offer two responses. First, Roseville is not only the smallest of the non-rural LECs, but it is an outlier by a wide margin. As was noted above, in terms of lines served Roseville is 1.6% the size of the next smallest "non-rural" company receiving hold-harmless support (Sprint) and 0.2% the size of the largest (Verizon). Roseville has two central offices while Sprint and Verizon have 1,371 and 6,248 central offices, respectively. Second, the fact

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[4] AT&T Opposition at 3.
[5] Id.

that Roseville falls under the Congressional definition of a "non-rural" company does not mean that they must also be measured for universal service support by the same yardstick that is used for the gigantic holding companies. The Commission has expressly recognized that it does not have a statutory obligation to use the "rural/non-rural" distinction from Section 3(37) of the Act as the dividing point between large and small companies.[6]

On page 3 of its Opposition, AT&T argues that a LEC's "ownership structure has little, if any, impact on its cost of providing service". In the Tenth Report and Order which developed the cost inputs for the model the Commission adopted a single nationwide set of cost inputs that expressly recognize the significant role that scale economies play in reducing the unit cost for large holding companies that buy their supplies and services in quantity.[7] Due to its size, Roseville does not enjoy these economies. Likewise, a small company such as Roseville must spread its fixed corporate and operating costs (including the costs of necessary regulatory filings) over one hundred thousand customers, while the large holding companies can spread them over tens of millions.

On page 4 of its Opposition, AT&T cites average density data to attempt to argue that Roseville's costs should be lower than other non-rural carriers.

> "According to Roseville's own data, its average line density is approximately 1,500 lines per square mile placing it significantly above the average for rural carriers, (13 persons per square mile) and even for other non-rural carriers (150 persons per square mile)."

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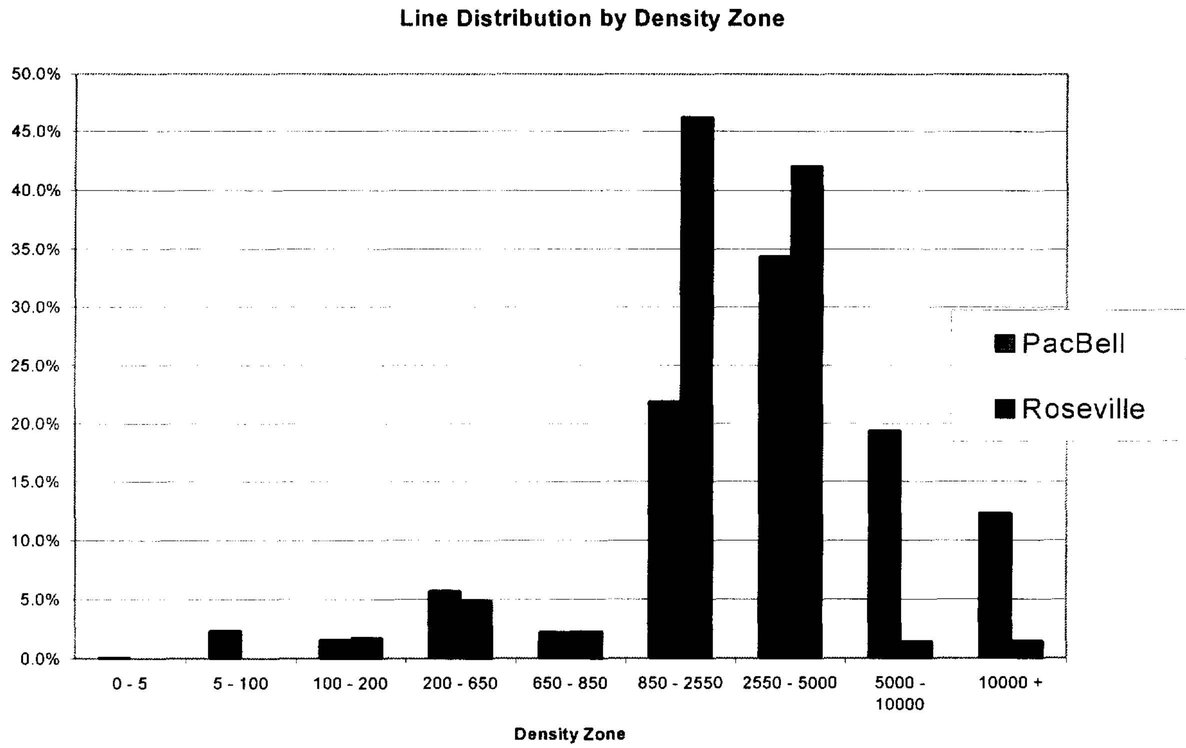
[6] Tenth Report and Order at paragraph 458.
[7] *See, e.g.*, paragraphs 30, 146, and 341 of the Tenth Report and Order.

Averages can be misleading. Costs tend to be relatively low in areas in close proximity to the central office, and quite high in areas many miles distant. Density also plays a role, since economies in distribution plant occur when customers are clustered together. It is this combination of distance and density that ultimately determines cost.

Average density over a company's entire service area, the data used by AT&T, is very misleading. Most people live clustered in towns or cities. There are also some customers who live in the remote areas between towns, and (except in the most dense population corridors) there is lots of land where no one lives. A very large serving area with most customers clustered in one town in its center would have a low cost per line, even though the lines per square mile for the total serving area would be very low. Conversely, a serving area where the average density is relatively high could also experience higher costs if the customers are uniformly disbursed throughout the serving area. Thus to examine relative cost, you must also examine the relative density groupings.

The following chart was developed from the density-zone output run used by the Commission in constructing its proxy model:[8]



This chart contrasts Roseville's density distribution to its non-rural neighbor, Pacific Bell. Notice that while over one-third of Pacific Bell's customers are located in the top two density zones (over 5,000 lines per square mile) less than 3% of Roseville's customers are in these zones. This is significant, since these are the zones where costs are the lowest. Also notice that almost half of Roseville's customers are in the 850-2550 lines per square mile density zone, a pattern that arguably might be observed in a rural town. As stated previously, AT&T's quoted statistic of an average of 150 lines per square mile for all of the "non-rural" carriers tells us nothing about how the customers are clustered within

[8] *Public Notice*, DA 99-1165, June 15, 1999 (14 FCC Rcd 9648).

the serving areas. These clustering arrangements are, of course, what determine cost. What the chart above does show, however, is that there is a significant difference between the customer clustering patterns of Roseville and Pacific Bell.

AT&T takes the observations of the Rural Task Force that the proxy model is inaccurate at the wire center level and should not be used for support determination for carriers with relatively few wire centers, and attempts to bend this logic to imply that the model may actually overestimate Roseville's cost.[9] This is not true. Roseville's actual costs are 130% of the nationwide average cost per line, while the proxy model run shows Roseville at only 90% of the nationwide average cost per line of all non-rural carriers. We believe that this large difference is due primarily to the significant differences in scale and scope between Roseville and the "big 5" holding companies that have already been cited.

However, AT&T ignores the second reason that the RTF provides for rejecting the application of the proxy model to smaller carriers – that these carriers rely on high-cost support to maintain affordable rates to a significantly larger degree than the large holding companies. For the "big 5" holding companies, high-cost loop payments range from 0 to 0.5 percent of loop revenue requirements. For Roseville this percentage is 4.5 percent, which places it significantly outside the range of the large holding companies and well within the

[9] AT&T Opposition at 4, footnote 10.

range of the other "rural" carriers.[10] Thus loss of this support will have a much greater impact on customers of these companies.

AT&T also implies that if the Commission grants Roseville's limited waiver, that other companies experiencing an impact from the phase-out of high-cost loop support would follow this "precedent" and that this "could have a significant impact on the Federal high-cost support budget". This is not plausible. The circumstances in Roseville's case are so unique compared to the other "non-rural" companies, that a grant of Roseville's waiver will provide no precedent for the other larger companies.

To put this issue in perspective one last time, the following chart is taken from the Commission's recently published *Trends in Telephone Service*.[11] It shows the total loops in service by holding company and dramatically illustrates at least one of the differences between Roseville and the "big 5":

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[10] Roseville Waiver at 8.

[11] Trends in Telephone Service, released December 21, 2000 (2000 FCC Lexis 6760). Data is from Table 8.3 Telephone loops by holding company (as of December 31, 1999). For display purposes the Table has been truncated at 70,000 loops. (NOTE: Subscriber Loops, as presented in this Table are defined slightly differently than the "subscriber lines" statistic used earlier in this filing.)

Company	Loops
Verizon Communications	**62,276,224**
SBC Communications	**58,918,970**
BellSouth Telecommunications, Inc.	**24,780,115**
Qwest	**16,883,785**
Sprint Corporation	**7,874,408**
ALLTEL Corporation	2,271,645
Century Telephone Enterprises, Inc.	1,264,311
Global Crossing Ltd.	1,126,253
Citizens Utility Company	1,011,101
Cincinnati Bell, Inc.	998,991
Telephone And Data Systems, Inc.	588,355
Alaska Communications Systems	329,876
C-TEC Corporation	297,405
Madison River Telephone Company	148,614
MJD Communications	140,031
North State Telephone Company	133,533
Rock Hill Telephone Company	123,806
Roseville Telephone Company	**123,520**
The Concord Telephone Company	118,218
TXU Communications	117,268
Consolidated Communications, Inc.	88,953
Horry Telephone Cooperative, Inc.	86,423
Conestoga Enterprises, Inc.	80,169
North Pittsburgh Telephone Company	79,042
Guam Telephone Authority	77,609

IV. Conclusion

By any reasonable measure of comparison Roseville is a distinctly different type of telephone company than the five large price cap holding companies with which it is grouped under the present rules for high-cost support. Roseville's PFR presents facts and data which dramatically prove this difference and propose modifications to the new mechanism that will allow Roseville to be evaluated for universal service support in a manner similar to other telephone companies with whom it has much more in common. The process of evaluating this PFR should continue until it has reached its ultimate conclusion. Grant of the requested waiver would be a limited remedy which will allow this process to continue without undue impact on Roseville's customers, and will serve the public interest.

Respectfully submitted,

ROSEVILLE TELEPHONE COMPANY

Paul J. Feldman, Esq.
FLETCHER, HEALD & HILDRETH, P.L.C.
1300 North 17th Street, 11th Floor
Arlington, Virginia 22209
(703) 812-0400

Glenn H. Brown (PJF)
MCLEAN & BROWN
9011 East Cedar Waxwing Dr.
Chandler, Arizona 85248
(480) 895-0063

January 8, 2001

CERTIFICATE OF SERVICE

I, Joan P. George, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that a true copy of the foregoing *Consolidated Reply of Roseville Telephone Company to Oppositions to Petition for Waiver* was sent this 8th day of January, 2001, via United States First Class Mail, postage prepaid, to the following:

Ms. Sheryl Todd (three copies) *
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, SW, Room 5-B540
Washington, D.C. 20554

Katie King, Esq. *
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, SW, Room 5-B550
Washington, D.C. 20554

International Transcription Service (one + disk)
1231 20th Street, N.W.
Washington, D.C. 20037

David L. Lawson, Esq.
Christopher T. Shenk, Esq.
Sidley & Austin
1722 Eye Street, N.W.
Washington, DC 20006

Mark C. Rosenblum, Esq.
Judy Sello, Esq.
295 North Maple Avenue
Basking Ridge, New Jersey 07920

Ellen S. LeVine, Esq.
Attorneys for the People of the State
of California and the California
Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

Joan P. George

Joan P. George

* By hand