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Public Service Commission

August 21, 2001

VIA ELECTRONIC FILING

Magalie R. Salas, Secretary
Federal Communications Commission
Portals II, TW-A325
445 Twelfth Street, SW
Washington, D.C. 20554

Re: Comments of the Florida Public Service Commission in Response to the Further Notice of Proposed Rulemaking in CC Docket No. 01-92

Dear Ms. Salas:

Forwarded herewith are Comments of the Florida Public Service Commission in response to the Further Notice of Proposed Rulemaking regarding development of a unified intercarrier compensation regime.

Sincerely,

/ s /

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

CBM:tf

Enclosures

cc: International Transcription Service
Brad Ramsay, National Association of Regulatory Utility Commissioners

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
) CC Docket No. 01-92
Developing a Unified Intercarrier)

**COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION
IN RESPONSE TO FURTHER NOTICE OF PROPOSED RULEMAKING**

The Florida Public Service Commission (FPSC) hereby respectfully submits its comments on the Further Notice of Proposed Rulemaking (NPRM) in CC Docket No. 01-92.¹ The FPSC expresses its concern regarding the level of detail put forward in this NPRM relating to the proposal, and questions why further information regarding potential effects on end-users was not, at a minimum, gathered through a Notice of Inquiry (NOI) before the issuance of this NPRM. This Commission does not believe that publishing the issues in a notice and seeking public comment is the most effective means to address the significant issues raised in this notice. Instead, we support a more collaborative effort to engage the Federal Communications Commission (FCC) through the appropriate Joint Boards. Specifically, the FPSC strongly encourages the FCC to formally refer the issues of cost allocations to the Federal-State Joint Board on Separations and associated universal service issues to the Universal Service Joint Board.

Background

On April 27, 2001, the FCC released a NPRM relating to the development of a unified intercarrier compensation regime that has the potential to affect virtually all customers in all states,

¹CC Docket No. 01-92, Notice of Proposed Rulemaking, FCC 01-132.

as well as state and federal policies on universal service, access charges, and jurisdictional separations. In this NPRM, the FCC begins a “fundamental re-examination of all currently regulated forms of intercarrier compensation.” Specifically, the FCC seeks comments on whether and how to replace the existing variety of intercarrier compensation methods with a unified approach based on a bill-and-keep methodology or other alternatives.

At present, rules relating to intercarrier compensation can be separated into access charge and reciprocal compensation rules. In general, access charge rules govern the payments that interexchange carriers (IXCs) and commercial mobile radio services (CMRS) carriers make to Local Exchange Carriers (LECs) to originate and terminate long-distance calls. The access charge rules can be further divided into interstate access charge rules that are set by the FCC, and intrastate access charge rules that are set by state commissions. Both the interstate and intrastate access charge rules establish charges that IXCs must pay to LECs when the LEC originates or terminates a call for an IXC, or transports a call to, or from, the IXC’s point of presence (“POP”). Reciprocal compensation rules govern the compensation between telecommunication carriers for the transport and termination of local traffic.²

Market Issues

Based on the NPRM, it is appears that the FCC believes that overall, the market will be improved if there is a simpler, unified system for carrier-to-carrier cost recovery. By essentially transferring some or all of the costs of interconnection from carriers to customers, the FCC believes

² Both sets of rules are subject to various exceptions (*e.g.*, long-distance calls handled by ISPs using IP telephony are generally exempt from access charges under the enhanced service provider (ESP) exemption).

this approach may cure some of the competitive market failures it has observed.³ There are questions we believe the FCC should answer to evaluate whether a bill-and-keep regime will perform as desired. For example, will a bill-and-keep approach:

- Provide fair compensation to each carrier in the market, especially if there are imbalances in the type or volume of traffic between the carriers;
- Maintain a reasonable link between the “cost-causer” and the “cost-payer”;
- Provide the proper economic signals to carriers in the market and their customers;
- Lead to cross-subsidies between low and high volume customers or other customer classes; and
- Create perverse incentives regarding infrastructure development, network configuration, or points of interconnection?

Prior to adoption, the effect of bill-and-keep on market issues should be fully investigated.

Universal Service

In its NPRM, the FCC recognized that its proposals might increase the effective local monthly bill observed by customers.⁴ The FCC also realized that its proposals will reduce the portion of the consumer’s total bill that is subject to geographic rate averaging under section 254(g), which would further increase many customers’ bills. The FCC requested comments on the significance of any such change in rates and its effect on subscriber penetration rates.

While the FPSC does not have specific estimates, it is conceivable that in high-cost states, local customers may not be able to afford the increase in monthly fees possible under the various bill-and-keep proposals. It may create pressures to increase the size of state and federal universal

³ For example, the FCC believes that CLECs, in some cases, have been able to price access services above competitive market levels.

⁴ NPRM at ¶123.

service funds to prevent customer drop-off from the network. Similarly, changing the method of carrier-to-carrier compensation implicates the universal service components of the CALL plan. For these reasons the FPSC strongly encourages the FCC to formally refer the issues associated with universal service to the Universal Service Joint Board.

Jurisdictional Separations

The FCC also recognized that its proposed policy changes might affect jurisdictional separations.⁵ The proposal, if adopted, would essentially change the dividing line between costs recovered through traditional interstate services and those recovered as part of the local bill. In many ways, bill-and-keep proposals are changing the concept of what is a “local” service. To the extent that the FCC effects a shift in costs to local ratepayers, the FPSC believes it would be appropriate, at a minimum, for the Separations Joint Board to be involved. Similarly, participation by the Separations Joint Board will allow the FCC to evaluate whether it is more reasonable to achieve the end it seeks through a change in jurisdictional cost assignment rather than through a change in access rate design policy. The issues raised in the NPRM are also closely related to jurisdictional allocation issues now before the Separations Joint Board as it continues its review of the next generation separations policy.

Cost Allocation

The FCC suggested that a bill-and-keep system could provide a demarcation point between networks so that regulators need not allocate costs.⁶ This suggests that the current sharing of costs between the state and federal jurisdiction will be eliminated, as costs will be assigned fully to either

⁵ NPRM at ¶ 122.

⁶ NPRM at ¶ 34.

one side or the other. Changing who pays for costs has the potential to affect end-user rates, incentives for infrastructure investment, customer penetration levels, universal service funding needs, and virtually every major cost-recovery policy affecting state and federal ratepayers. The FPSC has a significant interest in ensuring that federal cost allocation changes do not disrupt state networks, policies, or economic and social objectives.

Mirroring of Federal Policies

If the FCC goes to an interstate bill-and-keep system, the FPSC believes that states could face significant pressures to make similar changes at the state level. For example, if federal access charges are reduced or eliminated, this could create significant bypass and arbitrage incentives relative to state access charge systems. In the NPRM, the FCC requested comments on whether certain state rates should conform to federal policy goals.⁷ Therefore, there is a risk that the FCC may preempt state decisions regarding state access charges and other carrier-to-carrier arrangements. The FPSC would be opposed to any preemption.

Conclusion

Adopting a federal bill-and-keep system to replace access and reciprocal compensation arrangements has the potential to affect intrastate rates, universal service, cost allocation issues, infrastructure development, network structures, and various state policies. Given the wide scope of consequences of adopting a bill-and-keep system, the FPSC would oppose moving to such an approach unless issues are first referred to a Joint Board or comparable state/federal negotiation

⁷ While much of the NPRM addresses methods the FCC may adopt regarding interstate rates, ¶ 99 seeks comment on “whether, in order to achieve the benefits of a uniform intercarrier compensation regime, state public utility commissions would need to move intrastate access charges to forward-looking-economic costs.” At ¶ 87, the FCC also seeks comment on the extent to which Section 332 preempts state regulation of intrastate LEC-CMRS interconnection and gives such authority to the FCC.

Florida Public Service Commission
Docket No. 01-92
Page 6

process. Issues related to universal service and jurisdictional separations should also be referred to the Universal Service and Separations Joint Boards as appropriate.

Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

DATED: August 21, 2001

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of these FPSC comments is being mailed this date to the parties on the attached service list.

Respectfully submitted,

/ s /

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