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September 25, 2001

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

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SEP 25 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: In the Matter of Access Charge Reform
CC Docket No. 96-262 ✓
Ex Parte Communication

Dear Ms. Salas:

The attached letter is provided for the record regarding the above-referenced matter. Pursuant to FCC Rules, two copies of the letter have been provided.

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

Sincerely yours,


John Kuykendall

Attachment

cc: Dorothy Attwood
David Solomon
Carol Matthey
Jeffrey Dygert
Alex Starr
Radhika Karmarkar

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List A B C D E

K R A S K I N, L E S S E & C O S S O N, L L P
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dorothy Attwood
Chief, Common Carrier Bureau
David Solomon
Chief, Enforcement Bureau
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

Dear Ms. Attwood and Mr. Solomon:

It was the expectation of the CLEC industry and, we understand, the Commission, that with the adoption of the CLEC Access Order establishing a level at which conclusively lawful rates would be permitted to be tariffed, the interexchange carriers would discontinue their unlawful "self-help" practice of refusing to pay tariffed rates for interstate access. Unfortunately, this has not been the case. AT&T has now invented a new excuse for refusing payment. As shown by the attached letter to Consolidated Telecom (apparently intended for Consolidated Communications Networks, Inc.), AT&T now demands a sworn statement from CLECs filing under the rural exemption establishing the CLEC's eligibility to charge at that rate. AT&T states it intends to "evaluate" and perhaps ask for further information, before it "responds accordingly."

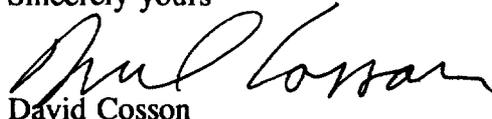
This latest ploy by AT&T, a thinly disguised attempt to continue economic pressure on rural CLECs, is without support in the Communications Act, the Commission's Rules, or the CLEC Access Order. There is no basis in fact for AT&T to question whether Consolidated is a Rural CLEC, or whether it is competing with a non-rural ILEC, since the relevant information is a matter of public record or within AT&T's possession. We fully expect that if the requested information were provided, AT&T would somehow find itself not satisfied and continue to refuse payment. By continuing its "self-help" despite the Commission's resolution of the lawfulness of the rates, AT&T demonstrates its contempt for the Commission's orderly process and threatens the financial integrity of rural CLECs.

On behalf of Consolidated Communications, prompt action by the Commission is urgently requested. Such action could include direct communication with AT&T, a public statement, or a

meeting under the Commission's auspices. We recognize that the Commission does not want to become routinely involved in the collection process, however immediate action is needed because the present position of AT&T makes a mockery of the Commission's attempt to find a reasonable solution to a complex problem. It is likely that in the sixty seven years AT&T provided service pursuant to FCC tariffs, it never once responded to any such demand by its customers, but quickly discontinued service if payment was not made. For the reasons well described in the Commission's order, disconnection of an IXC, especially the largest IXC, for non-payment is not practical for a rural CLEC, and "would fundamentally disrupt the workings of the public switched network."

I will be glad to provide any additional information which may be required. Although a request for enforcement assistance, this letter has been sent to the Chiefs of both Bureaus because of the central role of the Common Carrier Bureau in developing the rules in question.

Sincerely yours

A handwritten signature in cursive script, appearing to read "David Cosson".

David Cosson

Counsel to Consolidated Communications Networks, Inc.

Attachment

cc: Carol Matthey
Jeffrey Dygert
Alex Starr
Radhika Karmarkar



Tereasa L. Davenport
Company Manager
Access Billing Management

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Dear Consolidated Telcom:

We are in receipt of an invoice that includes interstate switched access service charges for the period from and after June 20, 2001. [CLEC]'s interstate switched access service rates are not within the benchmark rates set forth in the Seventh Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-262, issued by the FCC on April 27, 2001 (the "CLEC Access Charge Order"). Accordingly, AT&T is not obligated to pay Consolidated Telcom's charges for interstate switched access service charges.

If you claim the Consolidated Telcom is entitled to invoke an exemption to the general rules set forth in the CLEC Access Charge Order, please provide AT&T with a certification, sworn under oath, stating the exemption Consolidated Telcom is claiming. If Consolidated Telcom claims the so-called "rural exemption," the certification should provide all of the information necessary to permit AT&T to evaluate that claim. That information should include, without limitation:

1. A list of all serving areas in which Consolidated Telcom operates, including each geographical area within any state in which Consolidated Telcom operates or is authorized to operate;
2. A statement that no portion of any serving area falls within either (a) an incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau, or (b) an urbanized area, as defined by the Census Bureau;
3. Copies of all state certifications and intrastate tariffs that identify Consolidated Telcom's authorized serving areas;
4. The corresponding incumbent local exchange carrier (or carriers) in each of Consolidated Telcom's serving areas; and
5. The names of all of Consolidated Telcom's subsidiaries that are claiming an exemption to the general rules in the CLEC Access Charge Order.

AT&T will review that information and respond accordingly. AT&T reserves the right to confirm the information provided by Consolidated Telcom. AT&T also reserves the right to request additional information if AT&T determines that it is needed to clarify Consolidated Telcom's response to this letter. Further, the rural exemption only applies if and as long as all of Consolidated Telcom's serving areas meet the criteria for the exemption. Thus, even if AT&T agrees that Consolidated Telcom presently meets the criteria for the rural exemption, AT&T reserves the right

to continue to monitor and confirm Consolidated Telecom's operations and serving areas for prospective qualification for the exemption.

Very truly yours,

Teresa L Davenport