

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

<b>In the Matter of</b>	)	
	)	
<b>Access Charge Reform</b>	)	<b>CC Docket No. 96-262</b>
	)	
<b>Price Cap Performance Review for Local Exchange Carriers</b>	)	<b>CC Docket No. 94-1</b>
	)	
<b>Low Volume Long Distance Users</b>	)	<b>CC Docket No. 99-249</b>
	)	
<b>Federal-State Joint Board On Universal Service</b>	)	<b>CC Docket No. 96-45</b>

**COMMENTS OF  
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CONSUMER FEDERATION OF AMERICA  
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(JOINT CONSUMER COMMENTORS)**

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## **Joint Commenters**

The Texas Office of Public Utility Counsel (Texas OPC) is the state consumer agency designated by law to represent residential and small business consumer interests of Texas. The agency represents over 8 million residential customers and advocates consumer interests before Texas and Federal regulatory agencies as well as State and Federal courts.

The Consumer Federation of America (CFA) is the nation's largest consumer advocacy group, founded in 1968. Composed of over 250 state and local affiliates representing consumer, senior citizen, low-income, labor, farm, public power, and cooperative organizations, CFA's purpose is to represent consumer interests before the Congress and the federal agencies and to assist its state and local members in their activities in their local jurisdictions.

Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide consumers with information, education and counsel about goods, services, health, and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumer's Union's income is solely derived from sale of *Consumer Reports*, its other publications and from noncommercial contributions, grants and fees.

These three organizations (hereafter, Joint Consumer Commentors) have participated in each of the dockets cited in the caption to this Notice of Proposed Rulemaking.

## **The Fundamental Flaw in the CALLS Proposal, as Adopted by the Commission**

In our comments in the earlier rounds of this proceeding that gave rise to the ongoing

review of costs to be recovered in the federal jurisdiction, we made two simple points.<sup>1</sup> First, the Commission must consistently use forward-looking economic costs across all of its policy and ratemaking proceedings. Second, if it were to do so, it would find that there is already an over recovery of costs in the federal jurisdiction.

We argued then and we reiterate now that the CALLS proposal, which provided the basis for the changes in the SLC, claims to set switching at forward-looking economic costs. The Commission used forward-looking economic costs to establish the high cost payments for large LECs. Yet, the CALLS proposal does not set recovery of loop costs at forward-looking economic levels. In fact, it increases rates even farther above the forward looking economic levels as determined by the very same model used to estimate switching costs and high cost loop costs. It is arbitrary and capricious to lower switching costs to reflect forward looking economic costs but raise loop rates, when the very same model indicates they should be reduced.

Even at five dollars, we demonstrated that the CALLS proposal would institutionalize federal charges for access that are far in excess of the economic cost of providing access as estimated by the Commission's own forward looking cost model and thereby insulate the charges from competitive pressures, while, at the same time, ignoring the integrated nature of modern telecommunications plant and the business plans of telecommunications companies to sell bundled local, long distance, and Internet services.

The conclusion we drew was that the subscriber line charge is too high; public policy dictates that it should be reduced. In a world of efficient, multi-product telecommunications companies, claims that current fixed charges do not cover the federal share of loop costs are

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<sup>1</sup> November 12, 1999, December 3, 1999.

contradicted by the FCC's own cost analysis. Increases in unavoidable end-user charges, mandated by FCC action and tolerated by FCC inaction, run directly contrary to the congressional intention that basic service should bear no more than a reasonable share of joint and common costs.

### **Over Recovery of Costs from Texans in the Federal Jurisdiction**

To reach this conclusion, we applied the then existing costs analyses based on forward-looking costs to a number of states, with a focus on Texas. We explained that the cost of service had been declining rapidly because of the addition of second lines and we projected that there was a significant over recovery of costs in Texas. Texas is quite close to the national average, as well as being the home state of Texas OPC.

Our argument is as follows.

The addition of second lines has a dramatic effect on loop costs. The incremental cost of providing the second line is considerably lower than the first, because most of the capital equipment is deployed. This is especially true of loop and port costs. Consider the following example, which we believe is reasonable. Assume that second line penetration has moved from 4 percent to 20 percent. This assumption is supported by a recent national survey that indicated 24 percent of respondents have a second line. Further, assume that the second line costs half as much as the first line. This is a conservative assumption supported by testimony before the FCC and the cost model itself. The statewide average cost for loop and port in Texas would decline from \$18.20 to \$16.60. In other words, the average cost recovery in the federal jurisdiction should be closer to \$4.15.

Not only did the Commission adopt a SLC that is too high without any cost justification, but also it established a schedule that would increase those charges. They are scheduled to rise to \$6 in July 2002.

### **Cost Studies by Independent Analysts Demonstrate that Over Charges Exist**

The one concession the Commission made to proper procedure was to agree to hold a cost proceeding before the SLC is increased. The recent cost model filing of the National Association of State Utility Consumer Advocates (NASUCA) demonstrates that we were right on the mark.<sup>2</sup>

NASUCA estimates that the cost-justified SLC for Texas is \$4.26. The Texas PUC has applied the principles of forward looking costs and arrived at an estimate that would justify a SLC of \$4.35.

Based upon current line counts for Texas, consumers are being overcharged over \$80 million in the SLC alone by federal authorities. Factoring in other charges that contribute to the costs covered by the SLC, the total overcharge in Texas is approximately \$150 million.

NASUCA estimates overcharges nationwide of over approximately \$500 million. Nationwide, the total over recovery in the Federal jurisdiction exceeds \$1.5 billion. In other words, should the Commission allow the scheduled SLC increase to take effect next July, the over recovery of costs in the federal jurisdiction would exceed \$3.5 billion.

NASUCA also found clear evidence of the failure to properly allocate loop costs across the range of services that utilize the loop. These nonbasic services are not making a reasonable contribution to the shared costs of the network. Therefore, costs are being improperly attributed to basic service and the overcharge is compounded.

### **An Increase in the SLC Would be Unjust and Unreasonable**

NASUCA demonstrates that no increase in the SLC is justified and we concur. NASUCA does not seek an immediate reduction in the SLC, which would require deaveraging and we concur. Rather, NASUCA recommends that the Commission open an investigation into the nature of shared loop costs and the allocation of loop costs between services, since its analysis shows that non-basic services are being subsidized by basic service. We concur. A rigorous analysis of loop costs will show that the vast majority of basic service customers are covering their costs through the current SLC. Under that circumstance, deaveraging will amount to identifying customers whose SLC should be lowered, and identifying the few, if any, SLC charges that should be raised. At that point, better targeting of high cost funding – the subject of a separate proceeding – will provide the final element of cost recovery in the federal jurisdiction.

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<sup>2</sup> Comments of the National Association of State Utility Consumer Advocates, January 24, 1999.