

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)

Petition for Forbearance of Iowa)
Telecommunications Services, Inc.)
d/b/a Iowa Telecom Pursuant to)
47 U.S.C. § 160(c))

CC Docket No. 01-331

OPPOSITION TO AT&T’S PETITION FOR RECONSIDERATION

In accordance with sections 1.4(h) and 1.106(g) of the Commission’s Rules, 47 C.F.R. §§ 1.4(h), 1.106(g), Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom (“Iowa Telecom”) hereby submits this Opposition to the Petition for Reconsideration filed by AT&T Corp.

(“AT&T”) in the above-captioned matter on December 23, 2002.¹ AT&T asks the Commission to modify its November 25, 2002 *Forbearance Order*² granting the alternative relief requested in Iowa Telecom’s Emergency Petition for Forbearance in this proceeding, *i.e.*, forbearance from application of the 0.95 cents per minute average traffic sensitive (“ATS”) rate set forth in section 61.3 (qq)(2) of the Commission’s rules, thereby allowing Iowa Telecom to reset its ATS target rate at forward-looking economic cost (“FLEC”). AT&T’s Petition seeks only to “modify the *Order*” in two areas.³ First, it asks the Commission to establish an X-factor that would reduce

¹ AT&T Corp. Petition for Reconsideration (filed Dec. 23, 2002) (“*AT&T Petition*”).

² Petition for Forbearance of Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom Pursuant to 47 U.S.C. § 160(c) from the Deadline for Price Cap Carriers to Elect Interstate Access Rates Based on the CALLS Order or a Forward Looking Cost Study, CC Docket No. 01-331, Order, FCC 02-323 (rel. Nov. 26, 2002) (“*Forbearance Order*”).

³ Notably, AT&T does not contest the Commission’s grant of forbearance from the 0.95 cents per minute target ATS rate. Nor does AT&T challenge the Commission’s determination that each of the three statutory forbearance criteria are satisfied with respect to Iowa Telecom’s alternate request for relief. Instead, AT&T asks the Commission only to make two adjustments to the forbearance relief granted by the Commission.

Iowa Telecom’s ATS rate below FLEC levels over time. Second, AT&T asks the Commission to reduce the ATS rates of all other price cap local exchange carriers (“LECs”) to eliminate any net impact of the *Forbearance Order* on interexchange carriers (“IXCs”), such as AT&T.

As discussed in detail below, AT&T’s claims are wholly without merit and do not provide a basis to modify the *Forbearance Order*. AT&T’s first argument is inconsistent with the concept of a FLEC-based rate, which is, by definition, the rate that would be achieved in a fully competitive market; application of an X-factor to reduce the ATS target rate below FLEC would preclude Iowa Telecom from recovering the full measure of its forward-looking costs.

AT&T’s second argument attempts to recast the voluntary nature of the CALLS Plan. AT&T endorsed the CALLS Plan with the express understanding that the Plan would be “voluntary” for all non-participating LECs. Accordingly, it cannot now complain that allowing Iowa Telecom to adopt a FLEC-based ATS rate undermines the CALLS agreement.

I. ESTABLISHING AN X-FACTOR FOR IOWA TELECOM WOULD BE UNJUSTIFIED AND INCOMPATIBLE WITH ITS FLEC-BASED ATS RATE

AT&T argues that the Commission should modify the *Forbearance Order* to “establish an X-factor to be applied to Iowa Telecom’s newly determined FLEC rate.”⁴ AT&T complains that, by granting Iowa Telecom’s alternative request for relief “[w]ithout applying an X-factor, [Iowa Telecom’s ATS] rates will become increasingly overstated.”⁵ AT&T further complains that the Commission has “rewarded” Iowa Telecom “by allowing it to elect an even better option”⁶ than the two options that were presented in the *CALLS Order*.⁷

⁴ *AT&T Petition* at 2.

⁵ *Id.* at 3.

⁶ *Id.*

None of these arguments withstands scrutiny. AT&T's claim that an X-factor is necessary to prevent Iowa Telecom's FLEC-based ATS rate from becoming "increasingly overstated" is directly at odds with established economic theory. As the Commission has long recognized, economic theory teaches that access rates will decline over time "toward the forward-looking economic cost of providing [access] services in response to increased competition in local exchange and exchange access markets."⁸ FLEC-based rates thus represent rock bottom prices. Once a carrier's costs are set at rock bottom, *i.e.*, at FLEC, there are likely to be no further efficiency gains possible that exceed the general productivity increases experienced in the economy as a whole.

Applying an X-factor to Iowa Telecom's FLEC-based ATS rate inappropriately would drive the rate below FLEC, and below an economically sustainable level. Repeated application of an annual X-factor, of course, would compound the problem. In short, rather than being a necessary tool to prevent overstatement of Iowa Telecom's ATS rate, an X-factor would force the company to provide access services at a substantial economic loss. The Commission therefore acted appropriately by declining to establish an X-factor.

AT&T also argues that the Commission inappropriately granted relief that is "better" than the second CALLS option. This argument is irrelevant – an attempted comparison to another option available to the Commission does not undermine the justification for the relief granted.

(Continued . . .)

⁷ Access Charge Reform, CC Docket No. 96-262, Sixth Report and Order, 15 FCC Rcd 12962 (2000) ("CALLS Order").

⁸ Access Charge Reform, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982, ¶ 265 (1997) ("Access Charge Reform Order"); *see also id.* ¶ 262.

Moreover, allowing Iowa Telecom to set its ATS rate at FLEC without imposing an X-factor simply does not result in an inappropriately high rate.⁹

II. NO ADJUSTMENT TO OTHER CARRIERS' ATS RATES IS WARRANTED BECAUSE THE CALLS PLAN WAS VOLUNTARY AND THERE WAS NO GUARANTEE THAT ALL NON-PARTICIPATING LECS WOULD OPT IN TO THE CALLS PLAN

AT&T's second proposed modification is that the Commission should adjust the ATS rates of all other carriers to maintain AT&T's interstate access costs.¹⁰ This argument is merely an after-the-fact attempt to recast the CALLS agreement. AT&T signed up to the CALLS Plan on the condition that the signatory LECs – BellSouth, SBC, Bell Atlantic and GTE (now Verizon) – agreed to reduce their ATS rates to prescribed target levels. With respect to non-signatory LECs such as Iowa Telecom, however, AT&T agreed that the CALLS Plan was to be entirely voluntary.¹¹ Moreover, the *CALLS Order* explicitly gave price cap LECs the option of either electing to abide by the CALLS target ATS rates or choosing to reset their rates at FLEC.¹² Therefore, AT&T, like the other CALLS signatories, signed up to the CALLS Plan without any condition that any non-signatory LECs would have to participate in the Plan. Accordingly, AT&T's contention that the Commission's decision to allow Iowa Telecom to reset its ATS rate at FLEC will undermine the CALLS agreement is without basis.

⁹ It is notable that AT&T and other IXC's have argued in other proceedings that access services should be set at FLEC. *See Iowa Telecom Reply* at 11-12.

¹⁰ *See AT&T Petition* at 4.

¹¹ *See Access Charge Reform*, CC Docket No. 96-262, Notice of Proposed Rulemaking, 14 FCC Rcd 16872, 16896 (1999) (App. A at 19); *see id.* at 16986 (App. C at 35) (noting the plan is "voluntary"). The Modified CALLS Plan retained the voluntary nature of the plan for non-signatory LECs. *See Coalition for Affordable Local and Long Distance Services (CALLS) Modified Proposal*, CC Docket No. 96-262, Mar. 8, 2000, App. A, § 6 at 22 (2000) ("*Modified CALLS Proposal*").

¹² *See CALLS Order* ¶ 57.

In any event, the resetting of Iowa Telecom's ATS rate at FLEC will have only a marginal impact on the CALLS plan because Iowa Telecom is the nation's smallest price cap carrier and the change will be limited in duration. The Commission concluded: "There is no reason to think that allowing Iowa Telecom to reset its ATS rate based on FLEC would cause that rate or the rates reflected in the CALLS plan to fall outside the range of reasonableness."¹³ Accordingly, AT&T has failed to present any justification for modifying the ATS rates of other price cap LECs.

III. CONCLUSION

For the foregoing reasons, Iowa Telecom urges the Commission to deny AT&T's petition for reconsideration.

Respectfully submitted,

IOWA TELECOMMUNICATIONS SERVICES, INC. D/B/A
IOWA TELECOM

By: /s/ Gregory J. Vogt

D. M. Anderson
Vice President of External Affairs
Iowa Telecommunication Services, Inc.
11 Eleventh Avenue
P.O. Box 330
Grinnell, IA 50112
641.269.7807

Gregory J. Vogt
Derek A. Yeo
Wiley Rein & Fielding LLP
1776 K Street NW
Washington, DC 20006
202.719.7000

Its Attorneys

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¹³ *Forbearance Order* ¶ 21.

SERVICE LIST

I hereby certify that on this 7th day of January 2003, I caused a copy of the foregoing Opposition to AT&T's Petition for Reconsideration to be delivered to each of the following:

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

By electronic filing

Jay C. Keithley
Sprint Corporation
401 9th Street, N.W.
Washington, D.C. 20004

By first class mail

Mark C. Rosenblum
AT&T Corp.
Room 3A229
One AT&T Way
Bedminster, NJ 07921

By first class mail

Alan Buzacott
WorldCom, Inc.
1133 19th Street, N.W.
Washington, D.C. 20036

By first class mail

 /s/ Derek A. Yeo
Derek A. Yeo