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REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS  
NATIONAL TELECOMMUNICATIONS COMMISSION  
BIR Road, East Triangle, Diliman, Quezon City

RECEIVED

February 26, 2003

FEB 26 2003

**The Honorable Commissioners**  
Federal Communications Commission  
Washington, DC 20554 USA

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Subject** Termination Rates on US-Philippines Route

IB Docket No. 03-38

SIRS/MESDAMES:

It **has** come to our attention that AT&T and MCI/Worldcom have filed separate petitions before the Federal Communications Commission (FCC) alleging "whipsawing" and disruption of service on the U.S.-Philippine route on the basis that AT&T and MCI/Worldcom have not reached an agreement with Philippine carriers on termination rates.

It **is** the position of the National Telecommunications Commission (NTC) in keeping with international practice, commercial arrangements and national laws that termination rates are private commercial arrangements entered into by carriers of their own free will pursuant to the Constitutional guarantee of freedom to contract. It is our position that the Philippine carriers' US\$0.12 per minute (for calls terminating to fixed line network) and US\$0.16 per minute (for calls terminating to mobile network) termination rate offers are **still** well below the US\$0.19 per minute FCC benchmark and the ITU suggested rate of US\$0.238 applicable to countries such as the Philippines and are, therefore, fair and reasonable. The Philippine termination rates are in accord with the benchmarks of the US and the International Telecommunications Union (ITU) and have been accepted by most foreign operating administrations worldwide.

Consistent with our Memorandum Order dated February 7, 2003, which we attach for your reference, we have ordered our Philippine carriers with existing and effective agreements with foreign carriers relative to termination rates to **comply with the terms thereof, specifically in maintaining the flow of traffic in and between circuits and facilities covered by such agreements.** In the event that there exists no effective agreements, they are encouraged to negotiate and conclude agreements. Pending any conclusion, the parties may agree on provisional/interim arrangements for continuity of service. It is, however, understood that **absent any provisional or interim arrangement or agreement, there**

would be termination of service between the parties who are thereby encouraged to seek other routes or options to terminate traffic to the Philippines.

The NTC is most concerned with the request of AT&T and MCI/Worldcom for an immediate relief seeking the issuance by FCC of an order stopping US carriers from paying settlements to Philippine carriers until the termination rate issue is resolved. If so ordered by the FCC, this will definitely create dire consequences to the Philippine economy and is definitely detrimental for the Philippines, a developing economy with an infant telecommunications infrastructure that badly needs foreign exchange revenues.

We strongly urge FCC to give due consideration to the official position taken by the Philippines regulatory body, consistent with international comity and in the interest of all economies.

Very truly yours,

  
**ARMI JANE R. BORJE**  
Commissioner

  
**KATHLEEN G. HECETA**  
Deputy Commissioner

Copyfurnished:

**Mr. Donald Abelson**  
Chief  
International Bureau  
Federal Communications Commission



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS  
NATIONAL TELECOMMUNICATIONS COMMISSION  
BIR Road, East Triangle, Diliman, Quezon City

February 07, 2003

## MEMORANDUM ORDER

Philippine Long Distance Telephone Company (PLDT)  
SMART Communications Inc.  
**GLOBE** Telecom Inc.  
Bayan Telecommunications Inc.  
Other Public Telecommunications Entities (PTEs) **similarly** situated

**SUBJECT: NTC** Memorandum Order dated January 31, 2003 re: Maintaining Status **Quo** of existing **communications circuits** in the interest of public service and national welfare.

In response to the Order of this Commission dated 31 January 2003, as duly enfranchised and authorized service providers in the Philippines, you made representations and commitments before the Commission, to always maintain your communication circuits open and ensure no disruption of service. You have likewise informed the Commission that in keeping with international practice, national laws and commercial agreements, you shall protect and promote your interest to negotiate mutually agreed international termination rates with other foreign administrations.

Further, the Commission is informed that as of this date, you have arrived at a number of bilateral agreements/arrangements for the increase in termination rates, with operating foreign administrations. While two, three or four administrations have not agreed on the increased termination rates, negotiations are on-going.

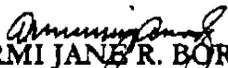
As shown, Philippine termination rates, even at increased rates, are still well below the FCC benchmark rate of **US\$.19/minute** for low middle income economies, such as the Philippines. It is also shown that these rates are low compared with ITU suggested target settlement rates for countries with teledensity between 1 to 5 telephones per 100 population which is US\$.238 per minute.

**WHEREFORE**, with your commitment and pursuant to the mandate to give assistance and encouragement to Philippine international carriers to establish interconnection with other countries so as to provide access to international communications highways on competitive basis, the National Telecommunications Commission (NTC) hereby **AMENDS** its Order dated 31 January 2003 with respect to the termination rates, as follows:

1. Philippine telecommunication carriers with existing and effective agreements with foreign telecommunication carriers relative to termination rates shall comply with the terms thereof, specifically in maintaining the **flow** of traffic in and between circuits and facilities covered by such agreements; and
2. Philippine telecommunication carriers without existing and effective agreements relative to termination rates are encouraged, as stated in the Order of January 31, 2003, to negotiate and conclude agreements. Pending any conclusion, the parties may agree on provisional/interim arrangements for continuity of service.

This Order is issued with a warning that the Commission shall exact observance of your responsibilities as a public service provider, to include that of keeping open your communication circuits to promote **PUBLIC SERVICE AND NATIONAL WELFARE** and maintain level playing field in the conduct of your operations. All other interconnection issues/concerns relative to the termination rates, such as access charges, shall be addressed accordingly in the context of this memorandum in compliance with the interconnection mandate.

**FOR COMPLIANCE.**

  
**ARMI JANE R. BORJE**  
Commissioner

  
**KATERLEEN G. HECETA**  
Deputy Commissioner

  
**JORGE V. SARMIENTO**  
Deputy Commissioner

Copy furnished: The Executive Secretary, Malacañang  
The Secretary, Depr. of Transportation and Communications  
Attn: Undersecretary Virgilio L. Peña