

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>The American Samoa Government's Proposed Rate Integration Plan for American Samoa</b>	)	<b>CC Docket No. 96-61</b>
	)	
<b>Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation Of Section 254(g) of the Communications Act Of 1934, as amended</b>	)	
	)	
<b>To: Wireline Competition Bureau</b>	)	

**COMMENTS OF AST TELECOM, LLC DBA BLUE SKY**

AST Telecom, LLC dba Blue Sky (“Blue Sky”), by its attorneys, pursuant to the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice<sup>1</sup>, submits the following comments in response to the Rate Integration Plan filed by American Samoa Telecommunications Authority (“ASTCA”).

**I. BACKGROUND**

Blue Sky is a Commercial Mobile Radio Service (“CMRS”) provider serving American Samoa. Blue Sky is also a facilities based interexchange carrier with a point of presence (POP) in American Samoa, providing interexchange services to residents of and visitors to American Samoa.

---

<sup>1</sup> *Amendment to Rate Integration Plan Filed by American Samoa Telecommunications Authority*, Public Notice (DA 04-1410), released May 28, 2004 (“Public Notice”).

On November 11, 1999, Blue Sky formally requested ASTCA to provide Feature Group D trunking for equal access (See Attachment 1). For a variety of reasons, ASTCA admits that it has yet to implement Feature Group D trunking.<sup>2</sup> It is Blue Sky's understanding that Feature Group D will be implemented soon after American Samoa enters the North American Numbering Plan in October, 2004. It is Blue Sky's further understanding that ASTCA is willing to initiate the equal access balloting process in January of 2005. Blue Sky notes that this is more than five years after Blue Sky formally made its bona fide request. While not ideal, Blue Sky is pleased that ASTCA is nearly to the point where equal access will be a reality in American Samoa.

## **II. DISCUSSION**

Blue Sky is anxious for ASTCA to effectuate rate integration pursuant to Section 254(g) of the Communications Act, as amended. Accordingly, Blue Sky respectfully requests that the Commission act promptly on ASTCA's rate integration plan. However, Blue Sky notes that the record currently contains a number of inaccuracies and factual discrepancies with respect to the state of competition in American Samoa and the nature of the service provided by ASTCA. Blue Sky takes this opportunity to highlight a few of these inaccuracies, and requests that the Commission, prior to approving ASTCA's rate integration plan, ensure that the record is properly updated.

### **A. ASTCA Fails to Recognize that Blue Sky Provides Facilities-Based Interexchange Service in American Samoa**

Blue Sky wishes to emphasize the fact that it is providing facilities-based local and long distance services in American Samoa, and has done so for many years. Blue Sky has also recently launched a competitive broadband Internet and data service in American Samoa.

---

<sup>2</sup> ASTCA Amendment pp. 2-3.

The May 3, 2004 amendment (“Amendment”) ASTCA filed to its proposed rate integration plan states that Feature Group D is only available to those interexchange carriers who have established a POP in American Samoa. ASTCA states “neither AT&T, MCI, Sprint, Verizon nor any other major national IXC has established a POP in American Samoa.” Amendment at p. 3. While true, ASTCA fails to inform the FCC that Blue Sky established a POP in July 1999 and is still waiting for the opportunity to provide toll calling to American Samoan landline customers through the equal access balloting process.

**B. ASTCA Needs to Update its Transition Plan**

ASTCA’s original Rate Integration Proposal (“RIP”), filed on October 1, 1997, contained a Transition Plan with a timeline of events that would occur both before and after ASTCA’s RIP is approved. In view of the seven years that have elapsed since the submission of the RIP, Blue Sky believes that the timeline needs to be updated. At the time its RIP was filed, ASTCA did not intend to join the North American Numbering Plan (NANP). ASTCA’s timeline and toll rate reductions were established under a different set of premises. Updating these rates will benefit all IXCs and will assist them in implementing rate integration for American Samoa.

To the extent it approves the RIP, the Commission should require that ASTCA meet the milestones set forth in its updated Transition Plan. Without the imposition of such a requirement, there is no guarantee that ASTCA will move any faster than it has to date to implement rate integration and equal access.

**C. ASTCA Needs to Correct Factual Inaccuracies in its Filings**

ASTCA’s rate integration filings contain numerous inaccuracies. For instance, ASTCA states that it operates without a government subsidy, but it fails to note that it is not subject to income tax yet operates in the exact same competitive market as Blue Sky. Rip at p. 3. ASTCA

is exempt from paying the American Samoa Corporate Income Tax. Thus, Blue Sky's ability to reinvest earned income is considerably less than ASTCA's, due to ASTCA's status as a government agency. However, ASTCA's status as a government agency does not hamstring ASTCA from acting like a private competitor, for example, by taking out color newspaper ads promoting special rates and deals that are in direct response to Blue Sky announcements of special rates and deals. ASTCA enjoys many advantages as a government entity, such as ready (and, sometimes, no-cost) access to government-owned property and rights-of-way and federal disaster assistance relief monies. ASTCA, but not Blue Sky, receives Federal Emergency Management Agency (FEMA) reimbursement of costs expended to recover from natural disasters, as well as FEMA Hazard Mitigation grants that allow ASTCA to harden its infrastructure proactively. Blue Sky is not eligible for FEMA funds. In short, ASTCA is implicitly subsidized and should not be permitted to state otherwise.

ASTCA states in its RIP that “[m]ore than 80 percent of the households in American Samoa subscribe to telephone service provided by [ASTCA].” RIP at p. 3. This was not true at the time ASTCA filed its RIP and is not true now. According to 1990 United States Census Bureau data, 62.55% of American Samoan households had telephone service, far short of the 80% claimed by ASTCA.<sup>3</sup> According to the most recent census data, only 68.3 percent of American Samoan households have telephone service.<sup>4</sup>

ASTCA also states in its RIP that the American Samoan government will create an independent, multi-member Telecommunications Commission. This has not yet occurred. The

---

<sup>3</sup> *U.S. Census Bureau, 1990 Census of Population and Housing Statistics: Social, Economic, and Housing Characteristics, American Samoa; 1990 CPH-6-AS (April 1992).*

<sup>4</sup> *U.S. Census Bureau, 2000 Census of Population and Housing Statistics: Social, Economic, and Housing Characteristics, American Samoa; 2000 SFAS (2002).*

failure to establish an independent commission continues to create a conflict of interest for ASTCA which is government-owned and operated. The RIP clearly states that “the Governor will continue to perform any necessary regulatory functions” and that arbitration will be handled “by the Governor pending establishment of this [Telecommunications] Commission.” RIP at 14, 16. Blue Sky objects to being regulated by the owner of its direct competitor. The FCC should take an active role in seeing that the American Samoan government creates a pro competitive environment for regulating telecommunications.

While Blue Sky recognizes that it is outside the scope of this proceeding, it would like to bring to the Commission’s attention the fact that ASTCA has engaged in several business practices that have created an unlevel playing field and disadvantaged robust competition coming to American Samoans. For instance, ASCTA’s LEC division charges 10 cents per minute to landline telephone callers who make calls to wireless subscribers, and requires a special deposit before it enables landline subscribers access to CMRS dialing.<sup>5</sup> This practice acts as a deterrent for ASTCA’s landline subscribers to call wireless subscribers, and is anti-competitive. Another example of an unfair practice is ASTCA’s roll out of DSL services in American Samoa. ASTCA is currently providing such services at no cost to government and private entities, and this has hindered Blue Sky’s ability to garner paying customers to its broadband service.

---

<sup>5</sup> Blue Sky notes that ASTCA charges ten cents a minute for calls placed to its own wireless subdivision subscribers. AST Telecom, LLC03-1753  
June 15, 2004



**Attachment 1**  
Blue Sky Request for Feature  
Group D Equal Access



November 11, 1999

Mr. Alex Sene, Jr.  
Deputy Director - Engineering  
ASTCA  
P. O. Box M  
Pago Pago, American Samoa 96799

Dear Mr. Sene, Jr.

Thank you for our recent meeting in October to discuss Equal Access in American Samoa. As we understand from this meeting, the ASTCA telephony network (with the exception of the Manu'a islands) will be capable of providing equal access switching via Feature Group D trunking after the 633 switch is replaced this month.

American Samoa Telecom, LLC is formally requesting Feature Group D trunking for equal access in American Samoa. This letter is to serve as a bona fide request from American Samoa Telecom, LLC, an interexchange carrier who has established a point of presence (POP) in American Samoa. AST is requesting equal access availability by April 1, 2000.

American Samoa Telecom, LLC has reviewed the NECA document entitled "Exchanges No. 19 - Equal Access" dated February 1993 provided in our meeting. While this document provides a description of equal access and the transition to equal access, many of the methods and procedures have been replaced by more current information. One item in particular, is the Carrier Identification Code (CIC). ASTCA has asked AST, LLC for its CIC code. AST, LLC is submitting with this letter the CIC Application Form, as described in the Carrier Identification Code Assignment Guidelines (INC 95-0127-006 Reissued August 30, 1999). This document was provided to you in our meeting.

Also provided with this letter is an Access Service Request (ASR) ordering the requested Feature Group D circuits.

Once the AST, LLC CIC code has been received from the North American Numbering Plan (NANP) Administrator, a follow-up meeting should be scheduled to discuss the equal access conversion and presubscription balloting timeline.

Any questions associated with this request may be addressed to Daniel Langkilde or myself. Contact information is the following:

Larry Gattis  
Telephone: 678-366-9660 ext 328  
Facsimile: 678-366-9662  
E-mail: [lgattis@twi-inc.com](mailto:lgattis@twi-inc.com)

Daniel Langkilde  
684-258-1010  
684-699-6593  
[dlangkilde@twi-inc.com](mailto:dlangkilde@twi-inc.com)