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November 25, 2009

Via Electronic Delivery

Ms. Marlene H. Dortch
Federal Communications Commission
The Portals, TW-A325
445 12th Street SW
Washington, DC 20554

Re: Notice of *Ex Parte* Presentations
WC Dkt. 07-135, *In the Matter of Establishing Just and Reasonable
Rates for Local Exchange Carriers*; CC Dkt. 96-45, *In the Matter of
Request for Review by InterCall, Inc. of Decision of Universal Service
Administrator*

Dear Ms. Dortch:

On Tuesday, November 24, 2009, Mark J. O'Connor and the undersigned of Lampert, O'Connor & Johnston, P.C., and on behalf of Global Conference Partners ("Global Conference"), met with Priya Aiyar, Wireline Legal Advisor to Chairman Genachowski. Ken Ford, President and CEO of Global Conference, and Michael Placido, CFO of Global Conference, participated in the meeting via telephone. At this meeting, Global Conference discussed regulatory issues that must be resolved to ensure the public benefits of competitive conferencing services are realized.

In addition to the attached slide presentation, Global Conference discussed in these meetings its October 22, 2009, written ex parte to Sharon Gillett, Wireline Competition Bureau Chief, also attached.

Further, on Tuesday, November 24, 2009, Mr. O'Connor had a telephone conversation with Marcus Maher of the FCC's Wireline Competition Bureau concerning Global Conference's proposal for reform of competitive LEC benchmark rates, as previously submitted in the record and as reflected in the attached slide presentation. Mr. O'Connor discussed that Global Conference's proposed rate benchmark was consistent with NECA terminating access rate bands 2 and 3, and considerably less than NECA rate band 8.

Pursuant to the Commission's rules, one copy of this notice is being filed electronically in the above-referenced dockets for inclusion in the public record. Please contact me directly should you have any questions.

Lampert, O'Connor & Johnston, P.C.

GCP Ex Parte (WC Dkt. 07-135; CC Dkt. 96-45)

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Respectfully submitted,



Jennifer P. Bagg

Counsel for Global Conference Partners

Attachment

cc: Priya Aiyar (priya.aiyar@fcc.gov)
Marcus Maher (marcus.maher@fcc.gov)

Resolving Regulatory Issues to Ensure the Public Benefits of Competitive Conferencing Services



FCC Ex Parte Presentation
WC Dkt. 07-135 & CC Dkt. 96-45
November 24, 2009



Overview

The FCC should adopt policies that allow consumers to benefit fully from the network and enable utilization of competitive conferencing services:

- Resolve the access stimulation proceeding by setting a prospective below-NECA cap on CLEC terminating access rates;
- Resolve the reconsideration of *InterCall Order* by keeping stand-alone conference services unregulated; and
- Stop the IXC practice of refusing to pay on interstate LEC access charges.



Uses and Users of Competitive Conferencing Services

Competitive services have made conferencing accessible and innovative.

- User-Managed competitive conferencing has successfully improved users ability to communicate by maximizing productivity, increasing efficiency and reducing travel time/cost.
 - Enhanced functionality and features include user groups, recordings, on-line "white board," desktop sharing functions, reminder services, email, stored information, and other innovative features.
 - Many uses including business meetings, product marketing, training, web-collaboration, seminars, distance learning, coaching, reunions and other group conversations.
- Competitive conferencing services exert pressure on traditional and VoIP conference call providers to lower rates, improve services, increase reliability and introduce innovative features.

A variety of users benefit from competitive conferencing services.

- Services are easier to use, less expensive, and more reliable, putting conferencing within the reach of many more users:
 - Businesses: from start-ups to large enterprises, and home-based businesses.
 - Non-traditional Users: community organizations, government agencies, universities and educational institutions, grassroots organizations, friends and families.



Regulatory Issues of Competitive Conferencing Services

Public policy should encourage network usage that enables the public to benefit fully from the network it pays for.

- IXCs promote and benefit from “all-you-can eat” plans, driving consumers to buy calling plans that stimulate network traffic.
- Conferencing services create long-distance demand that generates new and incremental revenues for IXCs.

IXCs have engaged in “self-help” to stop competitive conferencing services, including refusal to pay interstate access charges, exclusionary tariff treatment and excessive litigation. This ongoing situation:

- Maintains IXC entrenched position in higher-margin legacy conferencing services (*i.e.*, bundled long-distance with conferencing functions);
- Weakens the ability of rural CLECs to compete regionally with IXCs’ national wireless and video services; and
- Drains public and private resources that should be better focused on bringing consumers more and better services.



How Can the FCC Resolve Pending Regulatory Issues?

(1) Define Just and Reasonable CLEC Terminating Access Rates

Benchmarked rates are just and reasonable:

- Rural CLECs' rates today are just and reasonable, benchmarked to rural ILEC or NECA rates.
- "The Commission has specifically disclaimed reliance on cost to set competitive LEC access rates."
PrairieWave Order, 23 FCC Rcd. 2556 (2008).

Proposal: New FCC rate cap for high volume customers.

- Cap all CLEC tariffed terminating access rates at specific rate (*e.g.*, 2 cents per minute) by inserting a new subsection (g) to 47 CFR § 61.26 :

"Beginning [120 days after Federal Register publication], and notwithstanding any other provision of this rule, a CLEC's tariffed interstate terminating switched exchange access rate may not exceed 2.0 cents per minute on any CLEC working loop, or loops associated with a single CLEC subscriber, that receives more than 1500 terminating access minutes in a month."



(1) Define Just and Reasonable CLEC Terminating Access Rates (con't.)

Proposal is a good faith attempt to reach a compromise among competing interests.

- Proposal is consistent with understanding of privately negotiated agreements (e.g., Omnitel/Verizon settlement for 1.4 cpm).
- 2 cpm is a substantial cut from the NECA rate and reflects traffic patterns/demand and associated cost changes.
- Rate is consistent with the lowest competitive conferencing services costs and balances public interest benefits of "free" model.
- Proposal reduces likelihood of unintended impact on unforeseen network uses and is consistent with FCC precedent (e.g., ISP-bound, TRS).

Benefits of new FCC rate cap:

- Avoids other regulations such as revenue sharing prohibitions, complex "triggers," etc. which are stifling, unnecessary and will lead to more litigation/disputes.
- By adjusting down "outlier" rates significantly, no other regulation of CLECs is needed or productive.
- Avoids unintended consequences such as stifling growth of rural businesses and traffic.

"Profits" (revenues earned above incremental costs) on terminating access charges take different forms:

- Company investment in new products or services (e.g., AT&T U-verse, Verizon FiOS).
- Increased employee compensation, benefits and dividend payouts.
- Marketing fee/revenue sharing arrangements.



How Can the FCC Resolve Pending Regulatory Issues? (2) Reconsider and Clarify the *InterCall Order*

***InterCall Order* is inconsistent with FCC information services precedent.**

- The offering of "conference bridging capabilities to members" is an "information service" under the Act. *Pulver.com Order*, 19 FCC Rcd. 3307 (2004).
- The finished conferencing service should be examined from the consumer's perspective, taking into account all of the integrated features and functions of the service. *Universal Service Report to Congress*, 13 FCC Rcd. 11501 (1998).

Clarification is critically important to assist all providers of unified communications services, their investors, and most importantly, their users.

- The *InterCall Order* imposes significant regulatory uncertainty and costs for the competitive conferencing industry and threatens to undermine public benefits of competitive conferencing services.
- At a minimum, the FCC should clarify that conferencing services that do not bundle long-distance with conferencing functions are not "telecommunications" or "telecommunications services."
- Since stand-alone conferencing services are not "similarly situated" with the bundled long-distance conferencing offered by InterCall, the FCC should clarify the scope of its decision.



How Can the FCC Resolve Pending Regulatory Issues? (3) Enforce Current Law to Stop “Self-Help” Measures

Pay And Dispute Must Be Enforced

- Although ALL parties agree current access charge and intercarrier compensation system needs major overhaul, the FCC needs to re-iterate that billing disputes over conferencing traffic – like all traffic – are to be handled by “pay and dispute” mechanisms that govern carriers.
- Tariffs cannot be interpreted to exclude certain classes of end-users, including conferencing services.

The FCC is the Proper Forum for Disputes... Not “Self-Help”

- Allowing “self-help” – such as the refusal by IXCs to pay terminating access charges on LEC interstate tariffed services – undermines the integrity of the system, reducing its efficacy and creating unnecessary burdens on public and private resources.
- IXCs have been compensated by consumers for payment of terminating access, and yet have for years failed to remit those terminating access fees.
- IXC refusal to pay has emboldened industry to engage in other illegal practices, including call blocking.

We Look Forward to Working with the FCC to Resolve Pending Regulatory Issues



October 22, 2009

Via Electronic Delivery

Sharon Gillett
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: Written *Ex Parte* Presentation - WC Dkt. 07-135, *In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers*

Dear Ms. Gillett:

Global Conference Partners (“GCP”) writes to respond to the repeated smear tactics being used by AT&T and other interexchange carriers (“IXCs”) in this docket. Specifically, the IXCs have repeatedly lumped together “sex chat lines” with free conference calling services.¹ The repeated smear campaign here is as unacceptable as it is unhelpful to the resolution of issues this proceeding. Instead, the Commission

¹ Letter of Robert Quinn, AT&T, to Sharon Gillett, FCC, WC Dkt. No.s 07-135 and 07-52 (Oct. 14, 2009); Letter of Michael B. Fingerhut, Sprint Nextel, to Marlene Dortch, FCC, WC Dkt. No. 07-135 (Apr. 29, 2009) (describing that free conference calling service “enable minors to easily access explicit pornographic chat”); Letter of Melissa E. Newman, Qwest, to Marlene Dortch, FCC, WC Dkt. No. 07-135 (Sept. 25, 2009) (stating the IUB found that several free conference calling services “provided obscene or pornographic material”); Reply Comments of AT&T, WC Dkt. No. 07-135, at 12 (Jan. 16, 2008) (“many of these services make pornographic chat-lines available free to minors with a simple long-distance phone call”); Comments of AT&T, WC Dkt. No. 07-135 (Dec. 17, 2007) (“one of the most prolific methods of artificial traffic stimulation are “chat lines” – many of which offer “adult” or sexual subject matter”); *id.* at Attachment, Affid. of A. Panagia at 5 (“One of the most prevalent traffic pumping techniques is to provide ‘free’ or low cost chat lines, often providing sexually explicit content.”).



should promptly resolve this proceeding *on the facts* of the services and businesses being impacted.

The facts are that GCP and other conference service providers offer American consumers an accessible and innovative alternative to the IXCs' bundled and overly expensive conference service offerings. Further, GCP and other conference services offer features that simplify the process of conference set-up (including fully web-based set-up and reminder features) and that enhance the utility of conference services (including desktop sharing capabilities) and have improved users ability to communicate by maximizing productivity and increasing efficiency. As a result, a host of leading public and private U.S. institutions regularly rely on GCP's services, including: members of both houses of the U.S. Congress, the Federal Aviation Administration, US State Department, US Dept. of Justice, US Dept. of Homeland Security, US Treasury, NASA, US Dept. of Agriculture, US Environmental Protection Agency, and the United States Postal Service. General Electric and at least 75 of the Fortune 100 companies use GCP's services, as do non-profit and charity organizations including the American Red Cross, PBS, Make-a-Wish Foundation, The Nature Conservancy, Teach for America, AARP, and many others. Many educational institutions use GCP services, including UCLA, Harvard University, Yale University, Princeton, Brown, Columbia, Dartmouth and Cornell.

In defense of its subscribers, GCP must point out that the IXCs have absolutely no evidence supporting the suggestions that the individuals of these institutions or any other GCP users are somehow engaging in sex chat. To the contrary, as a small business offering competitive conference services in the United States for the past decade, GCP can attest that its services allow hundreds of thousands of subscribers to be more productive members of society, to communicate with other groups on a range of business, government and social matters, and in order to save money and to use their pre-paid long-distance services more effectively. Further, more effective usage of conferencing services means that people must travel less and, as a result, yields both environmental and global competitive gains for our country.

The repeated insinuation that the users of conference services engage idle and degenerate chatter is a gross mischaracterization. In fact, GCP knows that its users communicate vital information that strengthens our society as a whole. Indeed, many users have provided feedback to GCP that confirms the valuable impact of its services:

- “We are a small, grass roots, non-profit organization that is raising money to help educate girls in Africa. Educating girls is one of the most cost effective ways of alleviating poverty. Our donated dollars are very precious, and we



love using FreeConference for our Board of Directors conference calls. This way, donors know that their money goes directly to the girls in Africa.”

- “Your web based conference service works very very well for us. As a non-profit organization your service helps us to improve communication and management in the most cost efficient way one can hope for.”
- “Thank you for this conference setup. We had our first Board conference call in February. We are a national arts non-profit board with a small yearly budget. Our members live from Massachusettes to California. We only get together twice a year. This has enabled us to keep in touch and continue to get our work done. We have committed to a monthly phone conference. As incoming president, I can already see that the calls will make a big difference in our effectiveness as a board and our communications with each other. Thank you for providing this opportunity.”
- “We are a non-profit and money is not easy to come by so I must say, you are a God send. Not also is it free but your web site is absolutely professional and great looking, even with great tutorials! Thank you so much for this service. We really do appreciate it.”
- From a charitable organization dedicated to improving the lives of children, adults and families living with a severe health condition: “I just wanted to thank you all for offering this service. I am the founder and president of a new international non-profit organization. . . . We have been using your services (the free version) for over a year now for a monthly teleconference for our Board of Directors. We are, indeed, international, so calls are coming in from the U.S., Canada, Ireland, and even Australia. For a "start-up" organization such as our own (we are all volunteers, nobody is paid, and we're just now starting to fundraise), your service has been an absolutely invaluable tool.”
- From an innovative company that organizes professionals at for-profit companies to use their skills in the non-profit world: “We have been helping a lovely Sunnyvale company that provides services to those in need, such as youth exiting foster care, students in public schools attempting to improve their academic performance, persons attempting to recover from drug abuse, victims of spousal abuse, and the deaf and hard-of-hearing. The non-profit performs a wonderful service for the community, and I and five other professionals have been happy to help them improve their web-presence by working on a website project for them. However, we all have day jobs scattered throughout the Bay Area. We cannot meet face-to-face and we are



volunteers - we do not have a budget for conferencing. How fortunate it was for us, then to be able to use FreeConference.com: which allowed us to form phone conferences by simply dialing in.”

- “Just want to say that our non-profit organization has started using your site for some of our meetings and we love it. Especially since gas prices is going through the roof. It is cheaper to use the phone then to drive to a meeting.”
- "I just wanted to take a minute to thank you for the free conference call service. I am the president of an all volunteer, non-profit animal rescue organization. I signed up for your service and was able to use it this evening for a Board meeting. It was very helpful for my Board because we all live quite a distance apart.”

GCP believes it would disserve the American public for the Commission to be taken in by IXCs’ callous misrepresentations and, as a result, enact regulatory changes that would undermine the ability of competitive conference companies to offer low-cost and innovative services. Beyond the slander, to the extent that the IXCs’ substantive complaint is that some LEC terminating access rates are exorbitant, GCP has offered in its October 9th *ex parte* presentation a reasonable compromise that would cap the CLEC terminating access charge rates at no more than 2 cents-per-minute for high-volume CLEC customers such as conference services. We urge all parties in this proceeding to consider our compromise solution or other acceptable compromise solutions, in order that they may better focus their attention on serving the public and on innovating and investing in communications services.



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Pursuant to the Commission's rules, one copy of this notice is being filed electronically in the above-referenced docket for inclusion in the public record. Please contact me directly should you have any questions.

Sincerely,

Ken Ford
CEO
Global Conference Partners

cc: Chairman Julius Genachowski
Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Atwell Baker
Priya Aiyer
Jennifer Schneider
Christine Kurth
Carol Simpson
Christi Shewman
Albert Lewis
John Hunter
Alexander Minard
Jennifer Prime
Lynne Engledow