

GVNW Consulting, Inc.
Comments in CC Docket No. 80-286 FCC 11-34
March 28, 2011

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

In the Matter of)
)
Jurisdictional Separations and Referral to the) CC Docket No. 80-286
Federal-State Joint Board)

COMMENTS OF GVNW CONSULTING, INC.

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INTRODUCTION AND BACKGROUND

GVNW Consulting, Inc. (GVNW) is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, jurisdictional separations, intercarrier compensation reform, and strategic planning for communications carriers in rural America. The purpose of these comments is to respond to the Notice of Proposed Rulemaking in the above referenced proceeding which was released on March 1, 2011 (FCC 11-34).

GVNW has participated in many of the earlier proceedings regarding separations reform, often with data illustration impacts of proposed rule changes on rural incumbent local exchange carriers. While the extension of the current freeze does not require a specific price out, GVNW stands ready to evaluate specific changes that the Commission may propose as it further evaluates the long term approach to jurisdictional separations.

CLARIFICATION NEEDED

There has been a major transition in services being billed since the inception of the separations freeze using data from the year 2000. In the year 2000, rate of return local exchange carriers provided a significant amount of toll billing for interexchange carriers, and provided almost no billing for DSL services to end users. Over the years, there has been a significant increase in the billing of the DSL service. Toll billing has diminished to the point where there is a very small amount, if any, being billed for interexchange carriers by most of our rate of return clients. Administering a freeze that is inconsistent with the separations rules as written can cause a significant misassignment of

the current billing costs to the interexchange service rather than to the interstate special access service. GVNW believes that the Commission's affirmation of its rules being consistent with its intent in two areas will alleviate the misallocation problem that currently exists. Specifically, an affirmation of the distinction between categorization and jurisdictional assignment, or the affirmation regarding annually updating direct assignments should alleviate the growing misassignment.

A misapplication of the current rules results in millions of dollars for our client companies being misallocated to a category where they cannot recover the cost. We believe by the Commission affirming its current rules, a great deal of time and effort can be saved by avoiding all of the companies having to file waivers with the Commission or taking other actions to avoid the isolation of costs to categories for which the company has no realistic opportunity to recover.

**DISTINCTION BETWEEN CATEGORIZATION AND JURISDICTIONAL
ALLOCATION/ASSIGNMENT**

Based on Paragraph 22 of the original freeze Order and paragraph 4 of the instant NPRM, it appears the Commission makes a distinction between categorization and jurisdictional assignment by recognizing that a segregation of cost either to a category, sub-category, or further sub-classification of cost is the categorization step. The jurisdictional assignment step follows with a specific rule that either allocates the cost to the jurisdictions, or directly assigns the cost to a jurisdiction.

With regards to local business office (LBO) expense, there are six groups of costs that are sub-categorized using contact studies or revenues as follows:

(1) End-user service order processing includes expenses related to the receipt and processing of end users' orders for service and inquiries concerning service. This subcategory does not include any service order processing expenses for services provided to the interexchange carriers. **End user service order processing expenses are first segregated into the following subcategories based on the relative number of actual contacts** which are weighted, if appropriate, to reflect differences in the average work time per contact: Local service order processing; presubscription; directory advertising; State private line and special access; interstate private line and special access; other State message toll including WATS; other interstate message toll including WATS. (changed 12/11/06)

(2) End User payment and collection includes expenses incurred in relation to the payment and collection of amounts billed to end users. It also includes commissions paid to payment agencies (which receive payment on customer accounts) and collection agencies. This category does not include any payment or collection expenses for services provided to interexchange carriers. **End user payment and collection expenses are first segregated into the following subcategories based on relative total state and interstate billed revenues** (excluding revenues billed to interexchange carriers and/or revenues deposited in coin boxes) for services for which end user payment and collection is provided: State private line and special access; interstate private line and special access; State message toll including WATS; Interstate message toll including WATS; and interstate subscriber line charge; local, including directory advertising. (changed 12/11/06)

(3) End user billing inquiry includes expenses related to handling end users' inquiries concerning their bills. This category does not include expenses related to the inquiries of interexchange carriers concerning their bills. **End user billing inquiry costs are first segregated into the following subcategories based on the relative number of actual contracts**, weighted if appropriate, to reflect differences in the average work time per contact: State private line and special access; interstate private line and special access; State message toll including WATS; interstate message toll including WATS; interstate subscriber line charge; and other.

(4) Interexchange carrier service order processing includes expenses associated with the receipt and processing of interexchange carrier orders for service and inquiries about service. **Interexchange carrier service order processing expenses are assigned to the following subcategories based on the relative number of actual contacts** which are weighted, if appropriate, to reflect differences in the average work time per contact: State special access and private line; interstate special access and private line; State switched access and message toll including WATS; interstate switched access and message toll including WATS; State billing and collection; and interstate billing and collection.

(5) Interexchange carrier payment and collection includes expenses associated with the payment and collection of interexchange carrier billings, including commissions paid to payment and collection agents. **Interexchange carrier payment and collection expenses are assigned to the following subcategories based on relative total State and interstate revenues billed to the interexchange carriers**; State special access and private line; interstate special access and private line; State switched access and message toll including WATS; interstate

switched access and message toll including WATS; State billing and collection; and interstate billing and collection.

(6) Interexchange carrier billing inquiry includes expenses related to the handling of interexchange carrier billing inquiries. **Interexchange carrier billing inquiry expenses are assigned to the following subcategories based on the relative number of actual contacts**, weighted if appropriate, to reflect differences in the average work time per contact: State special access and private line; interstate special access and private line; State switched access and message toll including WATS; interstate switched access and message toll including WATS; State billing and collection; and interstate billing and collection.

The words in the above rules, as bolded, clearly indicate the contact studies and the billed revenues are used to categorize the LBO costs, not to allocate them or assign them to a jurisdiction. For price cap companies and for rate of return companies who chose to freeze their categorization, this distinction is not important, but for the rate of return companies that chose not to freeze their categorization, the categorization as prescribed in the rules should be updated as needed.

GVNW believes the inappropriate application of the LBO categorization stems from Appendix B of the original separations freeze Order where the contacts and revenues were misplaced in the “Factors to Freeze (by Jurisdiction)” rather than in the “Categories/Subcategories to Freeze (by Account)” section of the attachment. We ask the Commission to confirm that these categorization studies were misplaced in the Appendix, or if it were truly the Commission’s intent to change these categorization studies to allocation factors, that it go through the appropriate rule making process to change the categorization studies to allocation factors.

ANNUAL UPDATING OF DIRECT ASSIGNMENTS

The separations rules require the updating of direct assignments on an annual basis. There is no specific exemption for this requirement as it relates to LBO costs.

Specifically, Part 36.3(a) provides the following:

Effective July 1, 2001, through June 30, 2006, all local exchange carriers subject to Part 36 rules shall apportion costs to the jurisdictions using their study area and/or exchange specific jurisdictional allocation factors calculated during the twelve month period ending December 31, 2000, for each of the categories/sub-categories as specified herein. **Direct assignment of private line service costs between jurisdictions shall be updated annually. Other direct assignment of investment, expenses, revenues or taxes between jurisdictions shall be updated annually.** Local exchange carriers that invest in telecommunications plant categories during the period July 1, 2001, through June 30, 2006, for which it had no separations allocation factors for the twelve month period ending December 31, 2000, shall apportion that investment among the jurisdictions in accordance with the separations procedures in effect as of December 31, 2000 for the duration of the freeze.

As there is no apparent exemption of this rule to the direct assignments of LBO expense as specified in Part 36.377, we believe these direct assignments should be updated as required. Following are the specific rules that require the direct assignment of LBO expenses:

§ 36.377 Category 1 – Local business office expense.

(a) . . .

(1) . . .

(i) Local service order processing expense (primarily local telephone service orders) **is assigned to the State jurisdiction.**

(ii) Presubscription service order processing expenses **is assigned to the interstate jurisdiction.**

(iii) Directory advertising service order processing expense **is assigned to the State jurisdiction.**

(iv) State private line and special access service order processing expense **is assigned to the State jurisdiction.**

(v) Interstate private line and special access service order processing expense **is assigned to the interstate jurisdiction.**

(vi) Other State message toll including WATS service order processing expense **is assigned to the State jurisdiction.**

(vii) Other Interstate message toll including WATS service order processing expense **is assigned to the interstate jurisdiction.**

(2) . . .

(i) State private line and special access payment and collection expense **is assigned to the State jurisdiction.**

(ii) Interstate private line and special access payment and collection expense **is assigned to the interstate jurisdiction.**

(iii) State message toll including WATS payment and collection expense **is assigned to the State jurisdiction.**

(iv) Interstate message toll including WATS and interstate subscriber line charge payment and collection expense **is assigned to the interstate jurisdiction.**

(v) Local, including directory advertising payment and collection expense **is assigned to the State jurisdiction.**

(3) . . .

(i) State private line and special access billing inquiry expense **is directly assigned to the State jurisdiction.**

(ii) Interstate private line and special access billing inquiry expense **is directly assigned to the interstate jurisdiction.**

(iii) State message toll including WATS billing inquiry expense **is directly assigned to the State jurisdiction.**

(iv) Interstate message toll including WATS, and interstate subscriber line charge billing inquiry expense **is directly assigned to the interstate jurisdiction.**

(v) [Reserved]. (changed 12/11/06)

(vi) Other billing inquiry expense (primarily related to local bills but also including directory advertising) **is directly assigned to the State jurisdiction.**

(4) . . .

(i) State special access and private line service order processing expense **is directly assigned to the State jurisdiction.**

(ii) Interstate special access and private line service order processing expense is **directly assigned to the interstate jurisdiction.**

(iii) State switched access and message toll including WATS service order processing expense is **directly assigned to the State jurisdiction.**

(iv) Interstate switched access and message toll including WATS service order processing expense is **directly assigned to the interstate jurisdiction.**

(v) State billing and collection service order processing expense is **directly assigned to the state jurisdiction.**

(vi) Interstate billing and collection service order processing expense is **directly assigned to the interstate jurisdiction.**

(5) . . .

(i) State special access and private line payment and collection expense is **directly assigned to the Interstate jurisdiction.**

(ii) Interstate special access and private line payment and collection expense is **directly assigned to the interstate jurisdiction.**

(iii) State switched access and message toll including WATS payment and collection expense is **directly assigned to the State jurisdiction.**

(iv) Interstate switched access and message toll including WATS payment and collection expense is **directly assigned to the interstate jurisdiction.**

(v) State billing and collection payment and collection expense is **directly assigned to the State jurisdiction.** (changed 12/11/06)

(vi) Interstate billing and collection payment and collection expense is **directly assigned to the interstate jurisdiction.** (changed 12/11/06)

(6) . . .

(i) State special access and private line billing inquiry expenses is **directly assigned to the State jurisdiction.**

(ii) Interstate special access and private line billing inquiry expense is **directly assigned to the interstate jurisdiction.**

(iii) State switched access and message toll including WATS billing inquiry expense is **directly assigned to the State jurisdiction.**

(iv) Interstate switched access and message toll including WATS billing inquiry expense **is directly assigned to the interstate jurisdiction.**

(v) State billing and collection billing inquiry expense **is directly assigned to the State jurisdiction.**

(vi) Interstate Billing and Collection billing inquiry expense **is directly assigned to the interstate jurisdiction.**

The above noted expenses were directly assigned prior to the separations freeze Order, and we are aware of no Order or rule that would indicate the Commission intended to change this treatment. If it is the Commission's intent to change the treatment of the above expenses, we respectfully request that the Commission go through the appropriate rule making process and allow companies to provide input regarding the proposed change.

OTHER SUGGESTED MODIFICATIONS TO COMMISSION'S PROPOSAL

GVNW supports the Commission's proposal to extend the separations freeze as we believe the majority of the reasons for the original freeze in 2001 and the subsequent extension in 2006 are still valid. While we support the extension of the freeze, we believe some enhancements to the Commission's proposal would increase the effectiveness of the freeze. Following are the specific modifications we request the Commission and Joint Board consider with regards to the proposed extension of the separations freeze:

1. Consider a longer time frame for the extension.
2. Allow rural local exchange carriers a one-time option to change their categorization decision.

3. Allow exchange carriers a one-time option to update their separations factors.

Longer Extension

While GVNW supports the extension of the separations freeze, we believe the extension should be for a time period sufficient for the Joint-Board to complete a comprehensive review and for the Commission to adopt a well-reasoned plan consistent with the other major decisions that are under consideration such as Universal Service Support and intercarrier compensation. We recommend the extension be for at least three years and prefer an extension that will last until comprehensive reform is adopted.

Categorization Update

When rate of return carriers' made their initial election regarding the categorization freeze, the term for the freeze was five years. It has now been nearly ten years, and for a few companies this extended period may have had some unexpected results. We recommend the Commission adopt a one-time adjustment to the categorization decision by allowing companies to either make an adjustment to their frozen categorization to update to current operations, or allow the companies to change their election from frozen to unfrozen, or vice versa.

Update Separations Factors

With the change in technology, competition, and changes in individual companies operations, it may be appropriate for some companies to update their frozen factors to reflect current operations. GVNW recommends the Commission open a window of

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opportunity to allow companies that believe their frozen factors are outdated and non-representative to make a one-time adjustment to bring them up to date.

CONCLUSION

In conclusion, GVNW supports the extension of the separations freeze, with the clarifications regarding the LBO categorization and modifications, as well as a longer extension period, an opportunity to update the categorization decision, and an opportunity to update frozen factors.

Respectfully Submitted

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