

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

In the matter of)
Corporate Computing Services) ARC-MOD-19990121-00016
Request for Modification of the International)
Settlements Policy to Change the Settlement Rate)
for Switched Voice Service with India)

ORDER

Adopted: December 18, 2001

Released: December 20, 2001

By the Acting Chief, Telecommunications Division, International Bureau

I. INTRODUCTION

1. We have before us a request filed by Corporate Computing Services (CCS) for a modification of the Commission's International Settlements Policy (ISP) to introduce a settlement rate for switched voice service that it would initiate with India. We deny the request for the reasons discussed herein.

II. BACKGROUND

2. CCS filed a request for a modification of the Commission's ISP for switched voice service that would introduce a settlement rate for service it would initiate with Videsh Sanchar Nigam Limited (VSNL), a supplier of international telephone service in India. In a letter dated February 11,

1 The ISP requires uniform accounting rates, settlement rates, and division of tolls for U.S. carriers providing the same service to the same foreign point. The ISP also requires that U.S. carriers only accept their proportionate share of return traffic. See Implementation of Uniform Settlements Policy for Parallel International Communications Routes, 51 Fed. Reg. 4736 (1986) (ISP Order); Reconsideration, 2 FCC Rcd 1118 (1987); Further Reconsideration, 3 FCC Rcd 1614 (1988). In 1991, the Commission reformed the ISP to encourage and facilitate accounting rate reductions by U.S. carriers. See Regulation of International Accounting Rates 6 FCC Rcd 3553 (1991) (Phase I Report and Order); Reconsideration, 7 FCC Rcd 8049 (1992). See Regulation of International Accounting Rates, 7 FCC Rcd 8040 (1992) (Phase II Second Report & Order and Second Further Notice of Proposed Rulemaking). In 1996, the Commission codified the proportionate return policy. See Fourth Report and Order on Regulation of International Accounting Rates, 11 FCC Rcd 20063 (1997) (Flexibility Order). The Commission's Rules require a U.S. carrier to file with the Commission a modification request if it seeks to change its accounting rate with a foreign carrier. (47 C.F.R. § 43.51(d)(2)). The Commission amended its ISP so that it does not apply on routes where settlement rates are twenty-five percent or more below the Commission's benchmark rates and to agreements with foreign carriers that lack market power. See 1998 Biennial Regulatory Reform of the International Settlement Policy and Associated Filing Requirements, Report and Order and Order on Reconsideration, 14 FCC Rcd 7963 (1999) (1998 Biennial Review).

2 International Settlements Policy Modification for a Change in the Accounting Rate for International Message Telephone Service with India, ARC-MOD-19990121-00016 (filed January 21, 1999) (CCS Modification Request).

1999, the International Bureau suspended CCS's modification request³ because the Bureau was concerned that the settlement rate violates the Commission's *Benchmarks Order*.⁴

III. DISCUSSION

3. As part of its public interest mandate, the Commission has pursued policies to ensure that U.S. carriers negotiate non-discriminatory, cost-based accounting rates. Historically, accounting rates have been significantly higher than foreign carriers' costs to terminate service from the United States. High, above-cost accounting rates harm U.S. consumers by inflating U.S. calling prices and subsidizing foreign carriers. Specifically, the Commission has found that above-cost accounting rates are contrary to the public interest because they contribute to artificially high international calling prices and they represent a subsidy from U.S. consumers to foreign carriers.⁵ High accounting rates combined with a rapidly growing traffic imbalance between the United States and other countries contribute to a U.S. settlements payment deficit on international switched telephone service that now approximates \$5 billion per year. India received a settlement payment of more than \$600 million in 2000.

4. In 1997, the Commission adopted a set of benchmark rates and a schedule of effective dates in the *Benchmarks Order* for rates governing U.S. carriers in their settlement arrangements with foreign carriers. The Commission adopted the benchmark settlement rates because, in most cases, settlement rates that U.S. carriers pay to foreign carriers are substantially above foreign carriers' costs to terminate U.S. international service. The benchmark settlement rate for India is 23¢ per minute for service provided on and after January 1, 2002. The Commission also stated in the *Order* that it "expect[s] carriers to negotiate proportionate annual reductions in settlement rates"⁶ during the transition period to benchmark settlement rates. The Commission recognized that the benchmark rates it adopted in the *Benchmarks Order* were higher than foreign carriers' costs to terminate international service and reiterated that its goal remains "settlement rates that reflect incremental costs."⁷

5. We find that the accounting rate requested by CCS for service with India is not in the public interest. We find that that accounting rate makes no progress toward achieving cost-based settlement rates, exceeds the accounting rate approved for other U.S. carriers on the U.S.-India route, and remains significantly above the benchmark settlement rate.

6. The CCS modification request would not reduce the accounting rate for service on the U.S.-India route. The modification request provides for an accounting rate with VSNL of \$1.28 per minute. According to the CCS filing, the accounting rate would take effect at the time service commences with VSNL "on or around" February 1, 1999.⁸ When CCS filed its request for an accounting rate for service with India, no U.S. carrier had an accounting rate agreement with VSNL that had been filed with and approved by the Commission. Other U.S. carriers had agreements with VSNL for an

³ Letter from Troy F. Tanner, FCC, to Michael P. Choate, Corporate Computing Services, February 11, 1999.

⁴ *Report and Order on Regulation of International Settlement Rates*, 12 FCC Rcd 19806 (1997) (*Benchmarks Order*) *aff'd sub nom.*, *Cable and Wireless P.L.C. v. FCC*, 166 F.3d 1224 (D.C. Cir. 1999); *Report and Order on Reconsideration and Order Lifting Stay*, 14 FCC Rcd 9256 (1999) (*Benchmarks Reconsideration Order*).

⁵ See, e.g., *1991 ISP Order*, 6 FCC Rcd at 3553 ("the existing above-cost international accounting rate structure appears to be the primary reason that U.S. international calling prices are significantly higher than U.S. domestic calling prices"); *Benchmarks Order* ("(c)onservative estimates put at least a seventy percent of [the] total [1996 settlement payment] as an above-cost subsidy from U.S. consumers to foreign carriers").

⁶ *Benchmarks Order* at ¶172

⁷ *Id.* at ¶44.

⁸ See *CCS Modification Request* at 2.

accounting rate of \$1.28 per minute, but these agreements all expired on December 31, 1998. Thus, rather than a reduction in the accounting rate for service with India toward a cost-based level, the modification proposed by CCS would extend the period when the above-cost accounting rate of \$1.28 per minute is in effect without an expiration date. Moreover, the modification proposed by CCS is superseded by other carriers' modifications with lower accounting rates.⁹ Because the accounting rate proposed by CCS is not a reduction in the accounting rate,¹⁰ we find that the CCS modification to extend the accounting rate of \$1.28 per minute does not represent meaningful progress in negotiating a settlement rate with VSNL toward the benchmark rate and, therefore, is not in the public interest.

IV. CONCLUSION

7. For the above-stated reasons, we deny CCS's request for the accounting rate of \$1.28 with an effective date "on or around" February 1, 1999.

V. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that Corporate Computing Service's request to establish an accounting rate of \$1.28 per minute effective "on or around" February 1, 1999 is DENIED.

9. This order is effective upon adoption. Petitions for reconsideration under Section 1.106 of the Commission's rules may be filed within 30 days of the public notice if this order (*see* Section 1.4(b)(2) of the Commission's rules).

FEDERAL COMMUNICATIONS COMMISSION

Jacquelynn Ruff

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International Bureau

⁹ Other U.S. carriers filed modification requests for service with VSNL. MCIWorldCom, for example, filed a modification request to reduce the accounting rate with VSNL from \$1.28 to \$1.26 effective January 1, 1999, and then to \$1.08 effective April 1, 1999. *See* International Settlements Policy Modification for a Change in the Accounting Rate for International Telephone Service with India, ARC-MOD-20000412-00071 (filed April 12, 2000). *See also* Sprint's International Settlements Policy Modification for a Change in the Accounting Rate for International Telephone Service with India, ARC-MOD-20000601-00093 (filed June 1, 2000). Subsequently, Sprint filed another modification request to reduce the accounting rate with VSNL from \$1.08 to 85¢, effective April 1, 2000. *See* International Settlements Policy Modification for a Change in the Accounting Rate for International Telephone Service with India, ARC-MOD-20010119-00002 (filed January 19, 2001).

¹⁰*See, e.g., Sprint Communications Company, L.P., Request for Modification of the International Settlements Policy to Change the Accounting Rate for Switched Voice Service with Mexico*, DA 98-2401 (rel. November 24, 1998) (denying a request for reductions in the settlement rate for service with Mexico as contrary to the public interest because they did not make adequate progress toward achieving cost-based settlement rates).