

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

In the Matter of

American Telephone Transmittal Nos. 3525 and 3571
and Telegraph Company

Revisions to Tariff F.C.C. No. 12

ORDER

Adopted: January 3, 1992; Released: January 3, 1992

By the Chief, Common Carrier Bureau:

1. American Telephone and Telegraph Company (AT&T) has filed Transmittal No. 3525 to modify Virtual Telecommunications Network Service (VTNS) Option 6. Specifically, this filing adds to Option 6 the ability to add 45 Mbps data transmission capabilities (DTCs) network components and measured ports. This transmittal also: modifies the service elements covered by the basic charge; introduces an international revenue stimulation plan; modifies the change provisions; modifies the outage credit units; and makes certain textual changes. AT&T Transmittal No. 3525 Description and Justification (D&J) at 2-5. Transmittal 3525 is scheduled to take effect on January 5, 1992. On October 21, 1991 AT&T filed Transmittal No. 3571 to include modifications to Option 6 inadvertently omitted from Transmittal 3525.

2. MCI Telecommunications Corporation (MCI) filed a petition to reject Transmittal 3525, and US Sprint Communications Company Limited Partnership (Sprint), and Competitive Telecommunications Association (CompTel) filed petitions to reject or suspend and investigate Transmittal 3525 on October 21, 1991. AT&T filed a reply on November 4, 1991. MCI filed a petition to reject Transmittal 3571 and CompTel filed a petition to reject or suspend Transmittal 3571 on October 29, 1991. AT&T replied to those petitions on November 4, 1991.

3. Petitioners argue that the Commission's action in CC Docket 90-132,¹ prohibits the Commission from accepting the revisions to Option 6. Petitioners argue that the Commission intended to "grandfather" only those options on file as of August 1. MCI Petition at 4; Sprint Petition at 4-5; CompTel Petition at 2. The petitioners contend that the proposed revisions substantially alter Option 6, which they assert establishes that AT&T is using revisions as a way of avoiding the 800 service bundling restriction. See MCI Petition at 3; Sprint Petition at 1; CompTel Petition at 1. Sprint alleges that these modifications expand the scope of 800 service bundling in Option 6 and should not be permitted. See Sprint Petition at 2-3.

4. MCI argues that any modification of a Tariff 12 service arrangement must be viewed as changing the core offering. MCI Petition at 3. Therefore, says MCI, since these revisions would alter an existing Tariff 12 core offering that bundles inbound calling, Transmittal 3525 must be summarily rejected because it would conflict with the August 1 prohibition. *Id.* at 3-4. CompTel insists that these modifications are objectionable because they are material. CompTel Petition at 1. Sprint asserts that the changes in Transmittal 3525 are not being made to serve the current customer but to make this offering more attractive to other customers, thereby avoiding the Commission's prohibition on bundling of inbound service. Sprint Petition at 2-4. Sprint insists that if the Commission continues to permit AT&T to revise existing "grandfathered" options with an inbound component the grandfathering provision will be rendered "more loophole than rule." *Id.* at 3.

5. AT&T replies that this filing makes no fundamental change to Option 6; the rate elements, rate structure and functionality remain essentially as originally filed. AT&T Reply at 1. AT&T also asserts that Transmittal 3525 makes no modifications whatever in the rates for any inbound capabilities. *Id.* at 2.

6. In response to the claim of Sprint that these revisions expand the scope of 800 service bundling, AT&T asserts that these modifications make no change to rate schedules D or E, which apply for inbound calling, or any other change that affects inbound capabilities. *Id.* at 4. AT&T also argues that "grandfathering" involves a balancing of interests, and allowing these "routine" tariff revisions to become effective will in no way impede the Commission's Docket 90-132 policies. *Id.* at 5-6. Rather, says AT&T, it will prevent inequity to the initial Option 6 customer who has made a substantial investment in its VTNS network in reasonable reliance on the continued availability of tariff revisions. *Id.* at 6.

7. AT&T argues that petitioners repeat the same arguments they have raised since the inception of Tariff 12, alleging that Option 6 is unlawfully discriminatory. *Id.* AT&T asserts that these claims have been made before, without success, and should be rejected here as being patently without merit. *Id.* at 6-7.

8. The Commission's *Interexchange Order* precluded AT&T from including any inbound service in new Tariff 12 options until 800 numbers become portable, but "grandfathered" existing Tariff 12 options containing such service. *Interexchange Order* at para. 149. The Commission reasoned that, while this action would inconvenience customers who were in negotiations for Tariff 12 options, such customers would not have to reconfigure their existing service offerings, which existing customers would be required to do in the absence of the grandfathering provision. *Id.* at n. 237. On November 25, 1991, the Commission released an Order extending the grandfathering provision of the *Interexchange Order* to include the additional Tariff 12 options that had been filed with the Commission before September 1, 1991.²

¹ Competition in the Interstate Interexchange Marketplace, Report and Order, 6 FCC Rcd 5880, 5905-6 (1991), (*Interexchange Order*), reconsidered in part, FCC No. 91-390, Mimeo 38289, (released Nov. 25, 1991), petitions for further recon. pending.

² Competition in the Interstate Interexchange Marketplace, CC Docket No. 90-132, Memorandum Opinion and Order, FCC No. 91-390, Mimeo 38289, (released Nov. 25, 1991).

9. The Common Carrier Bureau has reviewed AT&T Transmittals No. 3525 and 3571, the revisions, and the appropriate pleadings. We conclude that these transmittals must be rejected because these revisions substantially change Option 6, which includes inbound service, and are therefore inconsistent with the Commission's decision in CC Docket 90-132 to prohibit any further bundling of inbound services in Tariff 12 packages and in contract-based tariffs.³

10. Accordingly, IT IS ORDERED that American Telephone and Telegraph Company Tariff F.C.C. No. 12, Transmittal Nos. 3525 and 3571, ARE REJECTED.

11. IT IS FURTHER ORDERED that the petition to reject American Telephone and Telegraph Company Tariff F.C.C. No. 12, Transmittal No. 3525, filed by MCI Telecommunications Corporation, the petitions to reject or suspend and investigate American Telephone and Telegraph Company Tariff F.C.C. No. 12, Transmittal No. 3525, filed by US Sprint Communications Company Limited Partnership, and Competitive Telecommunications Association, the petition to reject American Telephone and Telegraph Company Tariff F.C.C. No. 12, Transmittal No. 3571, filed by MCI Telecommunications Corporation, and the petition to reject or suspend and investigate American Telephone and Telegraph Company Tariff F.C.C. No. 23, Transmittal No. 3571 filed by Competitive Telecommunications Association, ARE GRANTED to the extent indicated herein, and otherwise ARE DENIED.

12. IT IS FURTHER ORDERED that American Telephone and Telegraph Company SHALL ISSUE revisions to the tariff no later than five business days from the release of this Order removing the rejected material and reinstating currently effective material. These revisions shall be scheduled to become effective on not less than one day's notice. For this purpose, Special Permission No. 92-6 is assigned and Sections 61.58 and 61.59 of the Commissions Rules, 47 C.F.R. §§ 61.58, 61.59, are waived.

FEDERAL COMMUNICATIONS COMMISSION

Richard M. Firestone
Chief, Common Carrier Bureau

³ See American Telephone and Telegraph Company, Transmittal No. 3375, DA 91-1577 (released Dec. 19, 1991) at para. 11.