

## Separate Statement of Commissioner Kevin J. Martin

*Re: Federal-State Joint Conference on Accounting Issues, WC Docket 02-269, Recommendation Concerning Suspended Items, Outstanding Petitions for Reconsiderations, and Proposed Modifications to the Part 32 Accounting Rules*

Today, the Federal-State Joint Conference on Accounting submits a series of recommendations to the Commission and requests that the Commission ultimately modify its accounting rules. I would like to commend my state and Federal colleagues for their commitment to resolving regulatory accounting issues and to thank them for their hard work in developing these recommendations. Telecommunications accounting issues are difficult and complex. My colleagues on the Joint Conference brought a wealth of experience and a thoughtful approach to dealing with these issues, and I believe the Commission and the public have benefited tremendously from their contributions and hard work. The recommendations of the Federal-State Joint Conference provide a critical starting point for evaluating needed changes to the Commission's accounting rules.

I write separately, however, to note that I continue to have some concerns about a few aspects of the recommendations of the Joint Conference. I agree that these critical issues should be addressed, but am not as sure that the information available at this time indicates that the benefits outweigh the costs.

I have some concerns about the recommendations pertaining to separate affiliates. For example, the Joint Conference recommends that, after the statutory sunset of the section 272 separate affiliate requirements, Bell Operating Companies (BOCs) should be required to maintain their in-region interLATA telecommunications service operations in a separate affiliate (with related accounting treatment). The Commission allowed the section 272 separate affiliate requirements to sunset in New York and Texas.<sup>1</sup>

The Joint Conference also recommends extending the affiliate transactions rules to apply to transactions between two regulated incumbent local exchange carriers (LECs). The Commission has never applied the affiliate transactions rules to these types of transactions.<sup>2</sup> Several state commissions have raised valid concerns about the risk of anticompetitive conduct for these types of transactions. Based on the information available to the Joint Conference at this time,

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<sup>1</sup> See Public Notice, *Section 272 Sunsets For Verizon in New York State By Operation of Law on December 23, 2002 Pursuant to Section 272(f)(1)*, 17 FCC 26864 (2002); Public Notice, *Section 272 Sunsets For SBC in the State of Texas By Operation of Law on June 30, 2003 Pursuant to Section 272(f)(1)*, 18 FCC Rcd 13566 (2003); see also *Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, Further Notice of Proposed Rulemaking, 18 FCC Rcd 10914 (2003).

<sup>2</sup> See *Accounting Safeguards Under the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 17539, para. 107 (1996) (*Accounting Safeguards Order*) (subsequent history omitted).

however, it is not clear to me that the benefits of extending the affiliate transactions rules into this area outweigh the costs.<sup>3</sup>

Despite these concerns, I believe it is extremely important that a forum be developed for notifying the Commission of accounting-related concerns and for identifying issues of concern to the states. In this regard, the Joint Conference on Accounting has been extremely successful at facilitating state commission input into the Commission's decision-making process for accounting issues and for renewing and beginning to formalize a dialogue on the broader issues related to accounting.

I support the Joint Conference recommendation for the Commission to initiate a Notice of Proposed Rulemaking seeking comment on the Joint Conference proposals. I look forward to continuing to work on these recommendations of the Joint Conference, and to receiving additional feedback from our state colleagues and others as we work to resolve these issues.

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<sup>3</sup> Similarly, I have some concerns about the recommendation to eliminate the central services organization exemption to the affiliate transactions rules, which the Commission adopted as part of the post-1996 Act rulemaking on accounting issues. In the 1996 rulemaking, the Commission found that the central services organization exemption would benefit consumers by allowing incumbent LECs to take advantage of economies of scale and scope. *See Accounting Safeguards Order* at para. 148 (explaining the basis for the central services organization exemption). Based on the information available at this time, I question whether it is necessary to eliminate the exemption for central services organizations.