Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

Policy and Rules Concerning the Interstate, Interexchange Marketplace	)))	CC Docket No. 96-61
Implementation of Section 254(g) of the Communications Act of 1934, as amended	))	

REPORT AND ORDER

Adopted: August 7, 1996 Released: August 7, 1996

By the Commission

TABLE OF CONTENTS

	Section	Paragraph
I.	INTRODUCTION	1
II.	THE 1996 ACT	2
III.	IMPLEMENTING RULES	6
	A. Rate Averaging	6
	1. General Rule	6
	2. Contract Tariffs, Tariff 12 Offerings, Optional Calling Plans, Discounts, Promotions, and Private Line Services	13
	3. Forbearance in Competitive Conditions	31
	B. State Authority	42
	C. Rate Integration	47

1. General Rule 47
2. U.S. Territories and Possessions 55

D. AT&T's Commitments 74

IV. FINAL REGULATORY FLEXIBILITY ANALYSIS 79

V. FINAL PAPERWORK REDUCTION ANALYSIS 88

VI. ORDERING CLAUSES 89

APPENDIX A -- Commenters

APPENDIX B -- Rules

I. INTRODUCTION

1. On February 8, 1996, the "Telecommunications Act of 1996" (1996 Act) became law.[1] This legislation makes sweeping changes affecting all consumers and telecommunications service providers. The intent of this legislation is "to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition."[2] Section 101(a) of the 1996 Act adds Section 254(g) of the Communications Act of 1934 to require interexchange carriers to integrate and average the rates they charge for service.[3] In our March 25, 1996, Notice of Proposed Rulemaking (NPRM), we proposed rules to implement Section 254(g).[4] In this Report and Order we establish those rules.

II. THE 1996 ACT

2. Section 254(g) provides that within six months of enactment:

the Commission shall adopt rules to require that the rates charged by providers of

[1]The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

[2]S. REP. NO. 230, 104th Cong., 2d Sess. 1 (1996) (Joint Explanatory Statement).

[3]*See* Telecommunications Act of 1996, sec. 101(a), § 254(g).

[4]*See In re* Policy and Rules Concerning the Interstate, Interexchange Marketplace, NPRM, CC Docket No. 96-61, FCC 96-123, ¶¶ 64-79 (rel. March 25, 1996).

interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.[5]

3. The legislative history of this section indicates that Congress intended for us to codify our pre-existing policies of rate averaging and rate integration, and to apply these policies to all carriers. The Joint Explanatory Statement states that

> [n]ew section 254(g) is intended to incorporate the policies of geographic rate averaging and rate integration of interexchange services in order to ensure that subscribers in rural and high cost areas throughout the Nation are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers.[6]

4. In the Joint Explanatory Statement, the conferees also said that they

> are aware that the Commission has permitted interexchange carriers to offer non-averaged rates for specific services in limited circumstances (such as services offered under Tariff 12 contracts), and intend that the Commission, where appropriate, could continue to authorize limited exceptions to the general geographic rate averaging policy using the [forbearance] authority provided by new section 10 of the Communications Act. Further, the conferees expect that the Commission will continue to require that any geographically averaged and integrated services, and any services for which an exception is granted, be generally available in the area served by a particular provider. In addition, the conferees do not intend that this subsection would require the renegotiation of existing contracts for the provision of telecommunications services.[7]

5. The Joint Explanatory Statement indicates that the "States shall continue to

---

[5]47 U.S.C. § 254(g), as amended. The Communications Act of 1934 defines "State" to include the District of Columbia as well as U.S. territories and possessions, such as Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa. 47 U.S.C. § 153(40).

[6]Joint Explanatory Statement at 132; *see also* S. REP. NO. 23, 104th Cong., 1st Sess. 30 (1995) (this section "simply incorporates in the Communications Act the existing practice of geographic rate averaging and rate integration for interexchange, or long distance, telecommunications rates to ensure that rural customers continue to receive such service at rates that are comparable to those charged to urban customers.") (Senate Commerce Committee report to accompany S.652).

[7]Joint Explanatory Statement at 132.

be responsible for enforcing this subsection with respect to intrastate interexchange services, so long as the State rules are not inconsistent with Commission rules and policies on rate averaging."[8] The Joint Explanatory Statement also makes clear that Congress intended Section 254(g) "to incorporate the policies contained in the Commission's proceeding entitled 'Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the United States Mainland and the Offshore Points of Hawaii, Alaska and Puerto Rico/Virgin Islands' (61 FCC 2d 380 (1976))."[9]

III. IMPLEMENTING RULES

A. RATE AVERAGING

1. General Rules

a. Background

6. The Commission has a long and well-established policy of supporting geographic rate averaging for domestic interstate interexchange services. We set forth the benefits of the policy in 1989:

> Geographic rate averaging redounds to the benefit of rural ratepayers, and customers of high cost local exchange carriers. First, geographic rate averaging ensures that interexchange rates for rural areas, or areas served by high cost companies, will not reflect the disproportionate burdens that may be associated with common line recovery costs in these areas. Thus, geographic rate averaging furthers our goal of providing a universal nationwide telecommunications network. Second, geographic rate averaging ensures that ratepayers share in the benefits of nationwide interexchange competition. If prices are falling due to competition in the corridors carrying the most traffic, prices will also fall for rural Americans.[10]

In the *AT&T Reclassification Order*, we noted that, although we have consistently endorsed a policy of geographic rate averaging, we have not formally issued a rule requiring carriers to

---

[8] *Id.* at 129.

[9] *Id.* at 132; *see In re* Integration of Rates and Services, Memorandum Opinion, Order and Authorization, 61 FCC 2d 380 (1976).

[10] *In re* Policy and Rules Concerning Rates for Dominant Carriers, Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873, 3132 (1989) (AT&T Price Cap Order).

geographically average rates.[11]

7. In the NPRM, we proposed to implement Section 254(g) by adopting a rule stating that "the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas."[12] We noted that the 1996 Act applies to all providers of intrastate and interstate interexchange telecommunications services.[13]

b. Comments

8. As discussed in subsequent sections of this Report and Order, most commenters focus on issues concerning possible exceptions to the Commission's proposed general rate averaging rule, such as forbearance issues. The few commenters who directly address the Commission's proposed rate averaging rule support it.[14] Several interexchange carriers (IXCs) argue that the 1996 Act gives the Commission broad authority and flexibility to implement its existing policy consistent with the Act's procompetitive and deregulatory goals.[15] MCI and AT&T suggest that only residential telecommunications services are subject to the rate averaging requirement.[16] Hawaii argues that the statute unambiguously applies geographic rate averaging to all services.[17] AT&T also argues that the Commission should specify that IXCs may continue to assess surcharges to recover state-specific gross-receipts taxes.[18]

c. Discussion

9. We adopt our proposed rule that "the rates charged by all providers of

---

[11] *In re* Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, 11 FCC Rcd 3271, 3349 (1995) (AT&T Non-Dominance Order).

[12] NPRM ¶ 67.

[13] *Id.*

[14] *See, e.g.,* CompTel Comments at 7; Cable & Wireless Inc. Comments at 4; Ohio Consumers' Counsel Comments at 3-4; TDS Comments at 2.

[15] AT&T Comments at 31-33; Sprint Comments at 14; Telecommunications Resellers Association Comments at 27; MCI Reply Comments at 19.

[16] MCI Comments at 32 n.50; *cf.* AT&T Comments at 39.

[17] Hawaii Reply Comments at 4-5; *see* Rural Telephone Coalition Reply Comments at 3-5 (noting legislative history that Congress removed modifier limiting rate averaging to residential services).

[18] AT&T Comments at 33.

interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas."[19] The Joint Explanatory Statement makes clear that Congress intended Section 254(g) to continue the Commission's existing geographic rate averaging policy.[20] Accordingly, our rule codifies our existing geographic rate averaging policy. As required under the 1996 Act, our rule will apply to all providers of interexchange telecommunications services and to all interexchange "telecommunications services," as defined in the Act.[21] This definition does not create any exception for nonresidential services. We, therefore, reject the contention by AT&T and MCI that Section 254(g) applies only to residential services.

10. We do not believe it necessary at this time, nor have commenters urged us, to define the terms "rural," "urban," or "high-cost" area as they appear in our rules implementing Section 254(g). Indeed, the traditional method of implementing geographically averaged rates -- identical mileage-banded interstate rates available throughout the country[22] -- requires no specific definitions at all. If carriers choose alternative means of implementing the statutory requirement, we will permit them, at least initially, to use reasonable definitions of these terms. We urge carriers to implement our rule concerning rural and urban areas in a way that will fully meet the intent of Congress. Carriers additionally remain subject to the requirements of sections 201 and 202 of the Act,[23] pursuant to which we can take action against any unreasonable discrimination for, or against, any class of customers. Carriers will also be subject to complaints filed pursuant to Section 208[24] for violations of our rate

---

[19]NPRM ¶ 67.

[20]Joint Explanatory Statement at 132.

[21]"The term 'telecommunications service,'" as defined in the statute, "means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 U.S.C. § 153(46). "Telecommunications," in turn, is defined as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 U.S.C. § 153(43).

[22]*See, e.g., In re* Referral of Questions from General Communications Inc. v. Alascom Inc., Memorandum Opinion and Order, 2 FCC Rcd 6479, 6481 (1987) (describing "the uniform mileage rate pattern").

[23]*See* 47 U.S.C. § 201(b) ("All charges, practices, classifications, and regulations for and in connection with [interstate] communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful"); 47 U.S.C. § 202(a) ("It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.").

[24]47 U.S.C. § 208.

averaging rule.[25]

11. We recognize that provisions of Section 254 other than subsection (g) also refer to "rural," "urban," and "high-cost" areas,[26] and that the Universal Service Federal-State Joint Board is examining in a separate proceeding how best to implement these provisions of Section 254.[27] For the reasons stated above, we see no need now to define these terms for purposes of Section 254(g). We believe that this conclusion does not constrain the Joint Board's discretion in defining these terms for purposes of the other provisions in Section 254; we find nothing in the legislative history of Section 254 that requires that the "rural" areas entitled to receive geographically averaged rates under Section 254(g) be identical to the "rural" areas entitled to receive rates and access to services pursuant to explicit universal service support mechanisms established under the other provisions of Sections 254. After the Commission establishes universal service rules in CC Docket No. 96-45, we can revisit our initial implementation of Section 254(g) with respect to the definitions of these terms if necessary.

12. Different rate structures may satisfy our rule. For instance, we believe that carriers that offer their customers rates based on reasonable differences in duration, time of day, and mileage bands will satisfy their obligations under Section 254(g) to provide geographically averaged rates between subscribers in rural and high-cost areas and subscribers in urban areas. This is the pricing structure that AT&T, both before and after divestiture, and other carriers, have used to satisfy our geographic rate averaging policy.[28] Although we do

---

[25]We defer consideration of what enforcement mechanisms, if any, may be necessary to support geographic averaging and rate integration until later in this proceeding, when the Commission considers detariffing of interexchange services. *Cf.* America's Carriers Telecommunications Association Comments at 9 (arguing that any decision regarding compliance by tariff or certification would be premature, as the Commission is still considering comments on detariffing).

[26]*See, e.g.*, 47 U.S.C. § 254(b)(3) ("Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services ... that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."); 47 U.S.C. § 254(h)(1)(A) ("A telecommunications carrier shall ... provide telecommunications services which are necessary for the provision of health care services in a State ... to any public or nonprofit health care provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State.").

[27]*See In re* Federal-State Joint Board on Universal Service, NPRM and Order Establishing Joint Board, CC Docket No. 96-45, FCC 96-93 (rel. March 8, 1996).

[28]*See, e.g., In re* Referral of Questions from General Communications Inc. v. Alascom Inc., Memorandum Opinion and Order, 2 FCC Rcd 6479, 6481 (1987) (describing the "uniform rate schedule based upon averaged costs and rates" used by AT&T).

not specify any particular alternative approaches, we believe there may be other rate schemes that are consistent with the statute's geographic rate averaging requirement. We do not believe that Section 254(g) requires carriers to assess geographically averaged state and local gross-receipts taxes. Accordingly, we will permit carriers to recover on a deaveraged basis state-specific gross-receipts taxes applicable to interexchange services.

2. Contract Tariffs, Tariff 12 Offerings, Optional Calling Plans, Discounts, Promotions, and Private Line Services

a. Background

13. Over the last decade, the Commission has reviewed extensively tariffs for interstate interexchange services offered by AT&T, the only dominant IXC until it was recently declared nondominant.[29] In the tariff review process for AT&T, we have permitted AT&T to offer discounted contract tariffs, Tariff 12 offerings, and optional calling plans, as long as they are generally available to similarly situated customers throughout the nation.[30] We have also permitted AT&T to offer temporary discounts and promotions that are restricted to customers in one geographic area, as long as the basic service package is available throughout the service area.[31] The Commission has not heretofore explicitly applied similar restrictions to nondominant IXCs in the tariff process or otherwise. We have also permitted AT&T to offer private line services on a geographically deaveraged basis. We have not required AT&T to advertise an offering throughout the nation.

14. We noted in the NPRM that parties to the *AT&T Reclassification* proceeding had asserted that some nondominant carriers do not offer discount rate plans throughout their service areas, so that some rural and high-cost customers are forced to pay the carrier's higher basic rates while customers in other areas can take advantage of the carrier's discount plans.[32] In the NPRM we asked whether a carrier's failure to make a discount plan available, or to advertise its availability, in its entire service area constitutes geographic deaveraging.[33]

---

[29] *See In re* Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, 11 FCC Rcd 3271, 3348-49 (1995) (AT&T Non-Dominance Order).

[30] The Commission, however, has not required carriers to offer discounts in areas where Local Exchange Carrier (LEC) switches and/or billing capabilities do not make this possible.

[31] *See, e.g.*, AT&T Tariff F.C.C. No. 2, Transmittal No. 7856 (effective date Dec. 24, 1994) (discount from December 24, 1994 to January 31, 1995 for calls from Hawaii), *cited in In re* Policy and Rules Concerning Rates for Dominant Carriers, Further Notice of Proposed Rulemaking, 10 FCC Rcd 7854, 7856-57 & n.37 (1995).

[32] NPRM at ¶ 72.

[33] *Id.*

b. Comments

15. IXCs unanimously urge the Commission to permit carriers to offer several types of promotions and discounts even if they are not available throughout a carrier's service area.[34] Specifically, IXCs believe the Commission should exempt from rate averaging all customer-specific contracts and contract tariffs,[35] optional calling plans,[36] promotional discounts,[37] and private line services.[38] These IXCs argue that the Commission's existing policy permits them to offer promotions and discounts.[39] Some IXCs also believe that the Act requires them to charge averaged rates for basic service only, allowing them to apply nonaveraged rates for other service options.[40]

16. MCI contends that we should adopt a rule that: (a) requires carriers to establish standard service rates that are available to all similarly situated customers throughout the carriers' service areas; (b) requires carriers to make contract tariffs and optional calling plans available to all similarly situated customers regardless of their geographic location; (c) permits carriers to adjust rates to address special competitive situations; and (d) permits carriers to offer promotions that sometimes are "geographically limited," provided that the promotions are temporary, confer only a nominal economic benefit on the recipients, and the resulting discrimination is not sufficiently significant to warrant regulatory action.[41] The Rural Telephone Coalition (RTC), similarly, would allow "market-specific promotions from

---

[34]AT&T Comments at 35-39; MCI Comments at 34-35; Sprint Comments at 15; LDDS WorldCom Comments at 15; Cable & Wireless Inc. Comments at 5; Frontier Comments at 9; Telecommunications Resellers Association Comments at 29-30.

[35]Telecommunications Resellers Association Comments at 30; AT&T Comments at 37-38; MCI Comments at 30-31; LDDS WorldCom Comments at 13-14; Sprint Comments at 14-15; Frontier Comments at 9; *see also* General Services Administration Reply Comments at 6-8 (federal government contract services not geographically averaged).

[36]Comptel Comments at 8-9; Frontier Comments at 9; MCI Comments at 31.

[37]AT&T Comments at 33; MCI Comments at 35; Frontier Comments at 9; Telecommunications Resellers Association Comments at 29.

[38]AT&T Comments at 33, 36 (citing geographically-specific tariffs for private line services filed by Wiltel, Sprint, MCI, and AT&T).

[39]CompTel Comments at 7; Telecommunications Resellers Association Comments at 28-29; AT&T Comments at 31-33; MCI Comments at 30-31; Cable & Wireless Inc. Comments at 3-5; Frontier Comments at 9.

[40]Comptel Comments at 8-9; Cable & Wireless Inc. Comments at 5.

[41]MCI Comments at 32, 34-35.

time to time that are sufficiently limited in duration and terms."[42]

17. IXCs argue that consumers will be harmed if the Commission does not allow them to offer promotions and discounts to some but not all their customers.[43] AT&T notes that it offers "geographically targeted promotions" to introduce a service in a new area and spur localized interest in particular services, and that these promotions offer lower prices to consumers.[44] AT&T further asserts that because temporary price changes do not have a significant impact on the market as a whole, restricting such pricing "would more likely injure than protect consumers."[45] Sprint argues that, if IXCs have to offer discounts universally, they will withdraw them from the market to the detriment of consumers.[46] Cable and Wireless claims that requiring carriers to offer discounts throughout their service areas would result in "less competition and fewer consumer choices, rather than more, for rural and high cost areas."[47]

18. Alaska, Hawaii, and the RTC argue that the 1996 Act requires rural and urban customers to pay the same rates for similar services, and does not provide for any exceptions for discounts or contract tariffs.[48] The RTC further claims that it is "premature" for the

[42]RTC Reply Comments at 8-9; RTC Comments at 13-14 (Optional calling plans, however, must be offered ubiquitously); *see also* Telecommunications Resellers Association Comments at 29 (rate averaging requirements should not "be extended to promotional or other temporary offerings."). *But see* Hawaii Reply Comments at 20 (until promotional discounts are defined with "more precision, it is impossible to grant relief without running the risk of violating 254(g) and 202(a)"); Alaska Comments at 7 (if discounts are not offered throughout a carrier's service area, rate averaging will be "an empty promise"); Ameritech Reply Comments at 23, 24 (promotions should not be permitted to be so widely available that they become a vehicle for end-running the rate averaging requirement; permanent promotions should be prohibited).

[43]AT&T Comments at 38; Sprint Comments at 15-16; Cable and Wireless Comments at 4-5.

[44]AT&T Comments at 36-37.

[45]*Id.* at 37-38.

[46]Sprint Comments at 16.

[47]Cable and Wireless Comments at 4-5.

[48]Alaska Reply Comments at 6-9; Hawaii Reply Comments at 4-6; RTC Reply Comments at 3-5; *see also* Missouri Public Service Commission Comments at 4 (customers in rural areas should pay rates comparable to rates urban customers pay for similar services); John Staurulakis, Inc. Comments at 4 (IXCs circumvent rate averaging by not offering discounts to their rural customers); Pennsylvania Public Utility Commission Comments at 16-17 (no exceptions in statute though Joint Explanatory Statement is ambiguous); Pennsylvania Office of Consumer Advocate Comments at 6-7 (Congress intended that carriers average the rates users actually pay and not the undiscounted rate); Alabama Public Service Commission Comments at 8 (must offer discounts in rural areas).

Commission to consider granting exceptions to statutory requirements so recently enacted.[49] Hawaii, Alaska, the RTC, and the Ohio Consumers' Counsel (OCC) argues that the Commission's sole authority to grant exceptions is the forbearance authority in Section 10,[50] and that the IXCs have not attempted, and will not be able, to demonstrate that forbearance will not lead to discrimination against rural customers and is in the public interest.[51]

19. The OCC and the RTC strongly urge the Commission to require carriers to make available and advertise promotional plans throughout their service areas.[52] The Telecommunications Resellers Association (TRA) opposes such a requirement.[53]

c. Discussion

20. As discussed above, Section 254(g) and our geographic rate averaging rule will require carriers to charge subscribers in rural and high-cost areas rates for telecommunications services that are no higher than rates offered to urban subscribers. The Commission's current policy as reflected in AT&T tariffs, however, has permitted AT&T to offer contract tariffs, Tariff 12 offerings, optional calling plans, and temporary promotions, subject to some limitations. Contract tariffs and Tariff 12 offerings generally involve discounts from basic rate schedules. Optional calling plans offer customers discounts from basic rate schedules, subject to terms and conditions specified in the optional calling plan. Temporary promotions involve discounts from basic rate schedules as well as limited sign-up periods for the promotional discount rates. As noted, we have also permitted AT&T to offer private line services at geographically deaveraged rates. AT&T rates for private line services vary from LATA (Local Access and Transport Area) to LATA, continuing pricing practices that AT&T has historically used in setting rates for private line services.[54]

21. The legislative history of Section 254(g) states that Congress intended that section to "incorporate" our existing policy concerning geographic rate averaging, and "that

---

[49]RTC Reply Comments at 7.

[50]47 U.S.C. § 160(a).

[51]Alaska Comments at 5 ("without actual experience under the new statutory scheme, the Commission cannot reasonably make the findings necessary to forbear from enforcing geographic rate averaging"), Reply Comments at 2; Hawaii Comments at 12-13, Reply Comments at 11; RTC Reply Comments at 7; United States Telephone Association Reply Comments at 2-3; OCC Comments at 4 n.4.

[52]OCC Comments at 5; RTC Comments at 14.

[53]TRA Comments at 29-30.

[54]*See, e.g.*, AT&T Tariff FCC No. 11, 3d revised page 23 (eff. April 23, 1994).

the Commission, where appropriate, could continue to authorize limited exceptions to the general geographic rate averaging policy using the [forbearance] authority provided by new section 10 of the Communications Act."[55] Therefore, we will conduct a forbearance analysis to determine whether we should permit IXCs to depart from geographic rate averaging where we have permitted them to do so under current policy.

22. We do not believe that our current policy of allowing carriers to offer contract tariffs and Tariff 12 options conflicts with geographic averaging because we require that these offerings be available to similarly situated customers throughout the carrier's service area. The legislative history to Section 254(g), however, indicates that the conferees viewed contract tariffs and Tariff 12 offerings, at least to some extent, as permissible exceptions to geographic rate averaging that could be authorized through forbearance.[56] Accordingly, our forbearance analysis will encompass contract tariffs and Tariff 12 offerings to ensure that our requirements implementing Section 254(g) are consistent with congressional intent.

23. Section 10 requires the Commission to forbear from applying any provision of the Act if we find that:

> (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations, by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
>
> (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
>
> (3) forbearance from applying such provision or regulation is consistent with the public interest.[57]

In addition, the Commission, in making its public interest determination, must "consider whether forbearance from enforcing the provision . . . will promote competitive market conditions, including the extent to which such forbearance will enhance competition among

[55]Joint Explanatory Statement at 132.

[56]*See id.* ("The conferees are aware that the Commission has permitted interexchange carriers to offer non-averaged rates for specific services in limited circumstances (such as services offered under Tariff 12 contracts), and intend that the Commission, where appropriate, could continue to authorize limited exceptions to the general geographic rate averaging policy using the [forbearance] authority provided by new section 10 of the Communications Act [codified at 47 U.S.C. § 160].").

[57]The Communications Act of 1934, § 10(a), 47 U.S.C. § 160(a).

providers of telecommunications services."[58]

24. We do not believe that permitting carriers to depart from geographic rate averaging to the extent necessary to offer contract tariffs, Tariff 12 offerings, optional calling plans, temporary promotions, and private line services in accordance with our current policy will subject rural and high-cost area customers to unjust or unreasonable, or unjustly or unreasonably discriminatory, rates because: (1) we will continue to require carriers to make these services generally available under our current rules (*e.g.*, contract tariffs and Tariff 12 offerings must be available to similarly situated customers) regardless of their geographic location, and (2) the only "geographically-specific" discounts that carriers may offer are temporary promotions. Thus, except for temporary promotions and private line services, interexchange telecommunications service offerings will be available on the same terms throughout a carrier's service area. In addition, we do not believe based on the record that allowing geographically deaveraged private line rates will produce unjust or unreasonable or unjustly or unreasonably discriminatory rates, as it is our current practice and has not raised such concerns. Thus, we find that enforcement of the geographic rate-averaging requirement for contract tariffs, Tariff 12 offerings, optional calling plans, temporary promotions, and private line services is not necessary to ensure that charges, practices, and classifications are just and reasonable and not unjustly and unreasonably discriminatory.

25. Enforcement of the geographic rate-averaging requirement for these services is also not necessary to protect consumers because these service offerings are generally beneficial to consumers. For example, promotions, optional calling plans, and discounts facilitate introduction of new and beneficial services to consumers. Indeed, we are particularly concerned that carriers will cease to offer such service offerings, to the clear detriment of all consumers, unless carriers are permitted to offer them for a limited time on a narrower scale than throughout their entire service areas. We believe that the limited scope and nature of promotions offered on a geographically specific basis will protect consumers and that, to the extent that these service offerings promote new services, consumers will benefit, including rural customers. We also believe that it is not necessary to apply geographic averaging to private line services, contract tariffs, and Tariff 12 offerings to protect residential consumers because these services are normally provided to businesses. Business consumers benefit from these services because in many cases the services are provided at discounted rates. Thus, we conclude that enforcement of the geographic rate-averaging requirement for contract tariffs, Tariff 12 options, optional calling plans, temporary promotions, and private line services is not necessary to protect consumers.

26. Finally, we believe that forbearance from applying the geographic rate averaging requirement to the extent permitted under our rules is consistent with the public interest. We come to this conclusion because we believe that allowing deaveraged rates, such

[58] *Id.* at § 10(b), 47 U.S.C. § 160(b).

as for temporary promotions, will ultimately benefit consumers by encouraging widespread offerings of new services. Moreover, it has been our practice to allow these exceptions to our existing policy, and we have no reason to believe this current practice is contrary to the public interest. In addition, excepting these specific types of service offerings from the geographic rate averaging requirement will continue to stimulate competition for customers among interexchange carriers. Limited departures from geographic rate averaging, such as for private line services and temporary promotions available only in some areas, are often designed to spur, or respond to, competition. For example, interexchange carriers often offer promotional discounts as a response to competition within the interexchange market.[59] For these reasons, we conclude that limited forbearance from applying the geographic rate averaging requirement to contract tariffs, Tariff 12 offerings, temporary promotions, and private line services is consistent with the public interest.

27. Accordingly, we forbear from applying Section 254(g), consistent with the intent of Congress, to the extent necessary to permit carriers to depart from geographic rate averaging to offer contract tariffs, Tariff 12 offerings, optional calling plans, temporary promotions, and private line services in accordance with our policy as previously applied to AT&T. As with current policy, we will require carriers to offer the same basic service package to all customers in their service areas, and permit carriers to offer contract tariffs, Tariff 12 offerings, and optional calling plans provided they are available to all similarly situated customers, regardless of their geographic location. We will permit carriers to offer promotions that may be "geographically limited," provided that the promotions are temporary, as discussed further below.

28. These requirements are fully consistent with the Commission's past practices. Contrary to the claims of some IXCs, we have not in the past exempted from our geographic rate averaging policy entire groups of services, such as contract tariffs, negotiated arrangements, or optional calling plans, where carriers offer discounted rates on a permanent or long-term basis. The record is clear, in fact, that we have required optional calling plans to be generally available throughout a carrier's service area and prohibited geographic restrictions in contract tariffs because a service package that is available to only one customer "unreasonably discriminates among similarly situated customers," and is therefore unlawful.[60] The only type of geographic restriction in a contract tariff that we have permitted is one that is necessary because of technical limitations imposed by a LEC's switching equipment or

---

[59] *See In re* Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, 11 FCC Rcd 3271, 3312, ¶ 78 (1995) (AT&T Non-Dominance Order) ("MCI and Sprint frequently initiate new discount plans and . . . AT&T responds.").

[60] *In re* AT&T Communications, Memorandum Opinion and Order, 4 FCC Rcd 4932, 4938 (1989), *rev'd and remanded on other grounds,* MCI Telecommunications Corp. v. FCC, 917 F.2d 30 (D.C. Cir. 1990); *see also In re* Competition in the Interstate Interexchange Marketplace, Report and Order, 6 FCC Rcd 5880, 5901 (1991).

billing capabilities, or where the underlying basic service is limited.[61]

29. As stated, we believe that temporary promotions benefit consumers because they facilitate the introduction of new services. We have permitted temporary promotions in the past for these reasons, and believe that Congress intended us to continue to do so. We conclude, however, that "temporary" promotions should, in fact, be temporary and not the basis for repeated offerings by carriers. Before AT&T was found nondominant for purposes of interexchange service,[62] we proposed to keep promotional rates outside of price caps as long as they were offered for no longer than 90 days.[63] Further, we find that a 90-day period in which customers may receive discounted rates as part of a promotion is sufficient time for a targeted promotional offering to attract interest in new or revised services, but not so long as to undermine our geographic rate averaging requirement. Accordingly, even though AT&T has tariffed longer promotions in the past,[64] we believe this length of time for temporary promotions not available throughout a carrier's service area best implements the statutory mandate for geographic averaging. Further, rather than specifying a range of permissible combinations of sign-up and discount periods, we believe that specifying a single time period for promotional discounts will facilitate administration of Section 254(g) and our implementing rules.

30. We will therefore permit carriers, as part of temporary promotions not available throughout a carrier's service area, to offer discounted promotional rates for no more than 90 days.[65] We will not at this time establish limits on the duration of sign-up periods for promotions, but we expect them to be relatively brief. We can review at a later time specific carriers' practices in this regard if necessary. We also expect that carriers' temporary promotions will not, when viewed over a number of years, reflect a pattern of undue discrimination against rural or high-cost areas. Thus, we expect that, viewed over time, temporary promotions will be offered in rural and high-cost areas, as well as to urban customers. We find it unnecessary to adopt advertising requirements concerning discounts

[61]*See, e.g., In re AT&T Communications*, 4 FCC Rcd at 4938.

[62]*See AT&T Non-Dominance Order*, 11 FCC Rcd 3271.

[63]*See, e.g., In re* Policy and Rules Concerning Rates for Dominant Carriers, Further Notice of Proposed Rulemaking, 10 FCC Rcd 7854, 7865 ¶ 53 (1995).

[64]*See, e.g.*, Tariff 1, § 8.1.1.745 (3-month discount period); Tariff 27, § 21.1.1.A.99 (6-month discount period); Tariff 27, § 21.1.1.B.43 (9-month discount period); Tariff 27, § 21.1.1.A.85 (discount periods ranging from 3 to 12 months); Tariff 1, §§ 8.1.1.747, 8.1.1.979 (12-month discount period); Tariff 27, § 21.1.1.A.24 (24-month discount period).

[65]Carriers that wish to provide promotions that effectively last more than 90 days must seek a waiver under Section 1.3 of our rules.

and promotions. We believe that consumers will be protected as long as long-term discounts and promotions are available to all similarly situated customers throughout a carrier's service area.

3. Forbearance in Competitive Conditions

a. Background

31. The NPRM sought comments on whether the Commission should forbear from enforcing geographic rate averaging in certain "competitive conditions," such as in low-cost regions where nationwide providers of interexchange service could be at a competitive disadvantage with an RBOC unless they are permitted to offer regional discounts.[66]

32. As explained above, Section 10 of the 1934 Act requires the Commission to forbear from applying any regulation or provision of the Communications Act if the Commission determines that:

> (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or service are just and reasonable and are not unreasonably discriminatory; (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest.[67]

b. Comments

33. All commenting IXCs and one LEC (BellSouth) urge the Commission to forbear from applying its proposed rate averaging rules in competitive conditions.[68] Several IXCs argue that the Commission should forbear from enforcing rate averaging with respect to

---

[66]NPRM ¶ 69 and n.154.

[67]47 U.S.C. § 160.

[68]AT&T Comments at 28-32, 33; MCI Comments at 29-30; Sprint Comments at 10-14; LDDS WorldCom Comments at 14; BellSouth Comments at 5-8; *see also* America's Carriers Telecommunications Association Comments at 8 (supports forbearance to ensure that "no carrier will be required to provide averaged pricing where its costs are not also averaged."); TRA Comments at 30 (competitive considerations argue against an "overly broad interpretation" of rate averaging, but not specifically urging forbearance); Florida Public Service Commission Comments at 14 (Commission's rate averaging proposal should be narrowed).

all nondominant carriers in the interstate interexchange market.[69] IXCs assert that the Commission's rigid enforcement of its rate averaging policy will lessen competition.[70] They contend that forbearance for nondominant carriers is justified, if not required.[71]

34. IXCs, BellSouth, and the Florida Public Service Commission (PSC) argue that a nationwide carrier will be unable to compete with a BOC in a regional market characterized by low-cost interexchange services unless the Commission forbears with respect to geographic rate averaging, *i.e.*, permits the IXC to offer a price that is below the national average.[72] AT&T notes that because access charges in some regions are approximately 10 percent below the national average, a LEC offering interexchange service from such a low-cost region would have a substantial market advantage.[73] AT&T argues that it would be unable to compete with a LEC in a low-cost area.[74] Thus, AT&T concludes that rigid rate averaging would force nationwide IXCs (and their customers) to make a difficult and unfair choice: "either the carrier must abandon high cost areas in order to compete effectively against regional IXCs in low cost areas, or abandon low cost areas and charge higher prices to customers in rural and high cost areas. Either way, each group of customers faces less competition and higher

---

[69]*See* AT&T Comments at 33-34; Cable and Wireless Comments at 5 n.9; LDDS WorldCom Reply Comments at 12. MFS Communications more narrowly urges the Commission to exempt from rate averaging carriers with less than 5 percent of the sum total of access lines and presubscribed lines nationwide, because such providers often serve select, high-cost areas and lack the nationwide base that larger providers can use to recoup these costs. MFS Comments at 9.

[70]Sprint Comments at 13; AT&T Reply Comments at 20-21; *see also* TRA Comments at 30 ("IXCs which operate nationally would be unable to compete effectively in that RBOC region under a strict geographic averaging/rate integration regime because they could not lower their prices to match the RBOCs without pricing below-market elsewhere.").

[71]*See, e.g.*, AT&T Comments at 31-34 & n.58.

[72]*Id.* at 29-30, 40; Sprint Comments at 11-14; LDDS WorldCom Comments at 14; MCI Comments at 30 n.47, 32; BellSouth Comments at 5-6 (averaging rules would prohibit a legitimate competitive response, such as lowering prices); Florida PSC Comments at 14 (rate averaging should be based on the LECs "in-region" area to permit IXCs to take advantage of lower access rates that may be offered in a particular region).

[73]AT&T Comments at 30 n.55; *see also* MCI Comments at 27-28 n.42 (access charges in some regions were 47 cents per minute while MCI's highest tariffed rate was 33 cents per minute). *But see* NYNEX Reply Comments at 15 (LECs lowered access charges but AT&T's rates rose; thus, access charges are irrelevant to rate averaging). AT&T urges the Commission to delay issuing this rulemaking until it is able to overhaul its access charge mechanisms completely and achieve lower and more uniform rates. AT&T Comments at 34-35. Alaska responds that Congress adopted Section 254(g) knowing that access costs varied among regions, and argues that "the Commission simply does not have the authority to do what these parties suggest." Alaska Reply Comments at 9.

[74]AT&T Comments at 30.

prices."[75] America's Carriers Telecommunication Association (ACTA) and MFS also ask us to forbear in competitive conditions, arguing that small regional providers of interexchange service in high-cost areas would be unable to compete with nationwide carriers that can charge lower rates by spreading their costs over a larger customer base.[76]

35. Alaska, Hawaii, the United States Telephone Association (USTA), the RTC, and the OCC strongly oppose forbearance based on the existence of competitive conditions.[77] Hawaii and the RTC argue that, since all IXCs are nondominant, if the Commission exempts nondominant carriers, no carriers would be required to average interexchange rates -- a result that Congress could not have intended.[78]

36. Hawaii and Alaska also argue that a competitive conditions exemption would be contrary to the Act's intent, which was to balance the goal of promoting competition with other goals such as universal service.[79] Hawaii and Alaska further claim that AT&T overstates the threat of regional competition.[80] They argue that large nationwide carriers are unlikely to give up their national markets or fail to compete in regional markets because the IXCs have economies of scale and other incentives that offset any regional differences in access charges.[81] Hawaii questions whether AT&T would abandon high-cost markets, given the potential loss of the goodwill that AT&T now gains from offering nationwide service.[82]

---

[75] *Id.*

[76] *See* ACTA Comments at 7-9 (arguing that the access charges interexchange providers pay vary, that rate averaging would disproportionately burden smaller carriers serving high-cost areas, and that the Commission should account for these concerns in its rules, require access charges and other provider costs to be averaged, or forbear); MFS Communications Comments at 8-10 (arguing that the Commission should forbear from applying rate averaging requirements to carriers with less than 5 percent of the nation's access and presubscribed lines because such carriers have smaller customer bases over which to spread their costs, which are often higher than those of larger carriers, frequently because of high access charges in low-volume markets).

[77] Alaska Comments at 4-5, Reply Comments at 2; Hawaii Comments at 12-13, Reply Comments at 10-11; USTA Reply Comments at 2-4; RTC Comments at 8-11, Reply Comments at 5-7; OCC Comments at 4 n.4, Reply Comments at 9.

[78] Hawaii Reply Comments at 22-23; RTC Reply Comments at 2-3 ("this preposterous suggestion would necessarily negate section 254(g), treating the mandate as if Congress had irrationally enacted it only to have it abandoned without implementation.").

[79] Hawaii Reply Comments at 14; Alaska Reply Comments at 3-4.

[80] Hawaii Reply Comments at 14-15; Alaska Reply Comments at 5-6.

[81] Alaska Reply Comments at 5; Hawaii Reply Comments at 15.

[82] Hawaii Reply Comments at 15.

Supporters of rate averaging also claim that exempting IXCs on a regional basis would create a loophole that would effectively nullify Section 254(g).[83]

37. Hawaii and USTA further argue that the Commission would not be able to justify forbearance under the three-part analysis required by Section 10 of the 1934 Act.[84] Hawaii asserts that "competition is only one of several considerations under Section 10's forbearance test, and in no case can broad claims about promoting competition alone justify forbearance in these circumstances."[85] TDS Telecommunications Corporation argues that forbearance from rate averaging "would fly in the face of the Act's universal service principles and rate averaging policy and ignore the bidding of Congress."[86] USTA contends that Congress would not share the IXCs' apparent view that the public interest would be served by permitting interexchange carriers to discriminate against rural consumers by charging them higher rates.[87]

c. Discussion

38. We are not persuaded that we should establish an exception to our general rate averaging rule based on the existence of competing regional carriers that may be able to offer lower rates for interexchange services because of lower access charges or other costs. To establish such an exception we would need to forbear under Section 10 of the 1934 Act. As noted previously, we must forbear from applying any provision of the 1934 Act, as amended, when (1) enforcement of that provision is unnecessary to ensure that the relevant charges and practices are just and reasonable and not unjustly or unreasonably discriminatory; (2) enforcement of that provision is unnecessary to protect consumers; and (3) forbearance from applying the provision is consistent with the public interest.

---

[83] *Id.* at 22 ("it is difficult to imagine how the Commission could define a competitive situation so precisely that exceptions based on such situations would not begin to swallow the rule"); OCC Reply Comments at 9.

[84] Hawaii Reply Comments at 3-4; USTA Reply Comments at 2-4.

[85] Hawaii Reply Comments at 3; *see also* Alaska Reply Comments at 4 ("if competition was the 'be all and end all' of telecommunications policy, there would be no section 254(g), there would be no universal service provisions in the Telecommunications Act, and there would be no need for the Commission to do anything other than allocate spectrum.").

[86] TDS Telecommunications Corporation Comments at 5; *see* OCC Reply Comments at 9 (deaveraging would "deprive rural and high cost customers of the assurances mandated by Congress.")

[87] USTA Reply Comments at 3; *see also* RTC Comments at 9-10 (deaveraging would dramatically harm rural consumers because calls to doctors, emergency services, and schools are often long-distance calls); John Staurulakis Inc. Comments at 2-3 (OPASTCO study concluded that deaveraging would increase rural customers' monthly charges by $7.44 for interstate toll calls and by $10.99 for intrastate calls).

39. Commenters have failed to justify this exception under Section 10 because they have based their claims entirely on generalized assertions of the alleged need for a competitive exception to geographic averaging requirements. With respect to the first prong of the forbearance test, we believe that establishing a broad exception to Section 254(g) for low-cost regions entails a substantial risk that many subscribers in rural and high cost areas may be charged more than subscribers in other areas. Accordingly, we cannot conclude that enforcing our rate averaging requirements is unnecessary to ensure just and reasonable and nondiscriminatory charges for subscribers. We also see no basis in the record to conclude that it is unnecessary to enforce Section 254(g) to ensure protection of consumers. We are concerned that widespread deaveraged rates for interexchange services could produce unreasonably high rates for some subscribers. Further, commenters have not made a persuasive case that our geographic rate averaging requirement may compel them to abandon service in some areas. Finally, we believe that, as part of our initial implementation of Section 254(g), it is not in the public interest to create the broad exception urged by commenters. Accordingly, we conclude that commenters have not justified forbearance to create a competitive exception to geographic rate averaging. We also will not forbear from enforcing our rate averaging policy against nondominant carriers. We note that Congress knew at the time the 1996 Act was passed that all IXCs were nondominant and we find that Congress would not have required us to adopt rules to implement geographic rate averaging if it had intended us to abandon this policy with respect to all IXCs so soon after enactment.

40. We are also not persuaded that we should forbear for smaller carriers serving high-cost areas on the grounds that they might have difficulty competing against nationwide carriers. These carriers have provided only conclusory allegations of harm and have not shown that they will be unable to compete with larger carriers in a rate-averaged environment, much less that they have satisfied all three of the requirements set forth in Section 10 for exercise of our forbearance authority. Thus, these carriers, like the nationwide carriers, have failed to justify forbearance on this record.

41. We also reject AT&T's suggestion that we delay implementing Section 254(g) until access charges are lower and more cost based. We believe that Congress was fully aware of geographic differences in access charges when it adopted Section 254(g), and intended us to require geographic rate averaging even under these conditions.[88] Moreover, nothing in the text or legislative history of Section 254(g) suggests that the Congress intended to delay implementation of the geographic rate averaging requirement.

[88] The Commission recognizes the importance of access charge reform and is committed to completing a proceeding on that issue by the first part of 1997, consistent with the statutory deadlines established for the Section 254 Universal Service rulemaking. *See In re* Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Report & Order, CC Docket No. 96-98, at Section VII (adopted Aug. 1, 1996).

B. STATE AUTHORITY

1. Background

42. We noted in the NPRM that, although the statute requires the Commission to adopt rules to require geographic rate averaging for intrastate and interstate interexchange services, the statute does not appear to foreclose consistent state action in this area.[89] We noted that the Senate Report states that "States shall continue to be responsible for enforcing [intrastate geographic rate averaging], so long as the State rules are not inconsistent with" the regulations the Commission adopts.[90]

2. Comments

43. The Alabama PSC, Florida PSC, Louisiana PSC, Missouri PSC, Pennsylvania Public Utility Commission (PUC), and Washington Utilities and Transportation Commission (UTC) support the Commission's proposal to preempt state laws requiring geographic rate averaging only to the extent they are inconsistent with regulations the Commission may adopted regarding geographic rate averaging.[91] The National Association of Regulatory Utility Commissioners (NARUC) believes that the issuance of a preemptive Commission rule is not required by the express terms of the statute.[92] NARUC asserts, however, that to the extent the Commission does mandate preemption, the statute does not foreclose consistent state action in this area.[93] MCI states that the Commission's proper role is to issue guidelines for the states and "preserve the federal approach if any state action is inconsistent therewith."[94]

44. AT&T argues that states should not be prohibited from requiring rate averaging

[89]NPRM ¶ 68.

[90]S. REP. NO. 23, 104th Cong., 1st Sess. 30 (1995) (Senate Commerce Committee report to accompany S.652).

[91]Alabama PSC Comments at 8 (intrastate rates would have to be consistent with the Commission's rate averaging policy); Florida PSC Comments at 13-14 (States should have the flexibility to execute state policies designed to meet the spirit of the Act); Louisiana PSC Comments at 2-4; Missouri PSC Comments at 1 (States retain jurisdiction over intrastate matters); Pennsylvania PUC Comments at 14-16; Washington UTC Comments at 3 (requires statewide toll averaged rates).

[92]NARUC Comments at 3.

[93]*Id; see also* GTE Comments at 14-15; Sprint Comments at 17 n.7; TCA Comments at 3 (FCC preemption is not necessary "as long as state rules require toll rate averaging").

[94]MCI Comments at 29 (noting also that Congress did not amend the Commission's jurisdiction under 47 U.S.C. § 152, which is limited to "all interstate and foreign communication").

"on a less than statewide basis," so that the states may establish "multiple contiguous 'rate zones' that associate urban and rural areas which have logical relationships with each other."[95] The New York Department of Public Service (New York DPS) agrees.[96]

45. LDDS WorldCom argues that the Commission's rules should "prevent the appearance of an untenable patchwork of inconsistent state requirements."[97] The RTC claims that if States do not adopt rate averaging requirements within the same deadline imposed by Congress on the Commission, "the Commission's rules should also act as the intrastate averaging requirement for IXCs operating in that state."[98]

3. Discussion

46. We conclude that Congress did not intend in Section 254(g) to eliminate state authority over intrastate rates. To the contrary, we conclude that Congress intended the states to play an active role in enforcing Section 254(g) with respect to intrastate geographic rate averaging. States have a role in ensuring that rates for intrastate interexchange calls offered to rural and high-cost customer are no higher than those paid by urban customers. We believe that intrastate rate structures that are based on reasonable mileage bands will meet this requirement because that is the method traditionally used by carriers to offer geographically averaged rates. Thus, for example, carriers offering intrastate interexchange service may charge different intrastate rates for a call of 100 miles in Texas than for a call of the same distance in Virginia, pursuant to individual state decisions. Further, we find, as proposed in the NPRM, that states are free to establish intrastate rates, as long as they are not inconsistent with the rules we adopt in this proceeding. We will not, however, permit states to establish special rate zones within states because we believe that would result in geographically deaveraged rates in violation of Section 254(g). Section 254(g) requires that rates be no higher in any rural or high-cost area than they are in any urban area. To the extent that AT&T proposes to associate some, but not all, rural areas with certain urban areas, we presume that some rural areas will experience higher rates than some urban areas, in violation of the statute. Because AT&T has not addressed this apparent flaw in its proposal for rate "zones," we reject the proposal. We also conclude that, because the Joint Explanatory Statement provides that states may not adopt rules that are inconsistent with the rules we establish in this proceeding, states will not be able to permit deaveraged rates in special rate zones absent forbearance by the Commission.

---

[95]AT&T Comments at 42 & n.74.

[96]New York DPS Reply Comments at 1.

[97]LDDS WorldCom Comments at 13. *But see* OCC Reply Comments at 8 n.9 (Act is "not intended to require that intrastate interexchange rates be uniform between states"); GTE Comments at 15-17.

[98]RTC Comments at 14-15.

C. RATE INTEGRATION

1. General Rule

a. Background

47. As noted, Section 254(g) requires that "a provider of interstate interexchange services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State." This is referred to as rate integration. The Commission has a well-established policy of rate integration. Since 1972, the Commission has required any carrier that provides domestic interstate interexchange service between the contiguous forty-eight states and various offshore points to integrate its rates pursuant to a plan to integrate the carrier's rates and services for offshore points with its rates for similar services on the mainland.[99] In 1976, the Commission required carriers that offered message toll, private line, and specialized services to or from Alaska, Hawaii, Puerto Rico, and the Virgin Islands to integrate their rates for those services into the rate structures and uniform mileage rate patterns applicable to the mainland.[100] This policy required IXCs to lower their rates in the newly integrated areas to levels comparable to those prevailing in the mainland for interexchange calls of similar distance, duration, and time of day.[101] We reaffirmed our commitment to rate integration as recently as the AT&T Reclassification Order, stating that:

> [t]he Commission has long supported the polic[y] of ... rate integration between the contiguous forty-eight states and various noncontiguous

---

[99] *In re* Establishment of Domestic Communications-Satellite Facilities, Second Report and Order, 35 FCC 2d 844, 856-66 ¶¶ 35-36 (1972) (conditioning domestic satellite authorization for message telephone service on integration of Alaska, Hawaii and Puerto Rico into the uniform milage rate pattern of the contiguous states, perhaps by extending the last mileage step to reach those distances, or by creating a new mileage step with a proportionate increase in rates), *aff'd on recon.*, Memorandum Opinion and Order, 38 FCC 2d 665, 695-96 (1972), *aff'd sub nom.* Network Project v. FCC, 511 F.2d 786 (D.C. Cir. 1975).

[100] *In re* Integration of Rates and Services, Memorandum Opinion, Order and Authorization, 61 FCC 2d 380, 392 (1976) (ordering AT&T to implement full rate and service integration for all services it provides Hawaii, Alaska, Puerto Rico and the Virgin Islands); *In re* Integration of Rates and Services, Memorandum Opinion, 62 FCC 2d 693, 695 (1976) (declining to limit rate integration requirements to certain services); *In re* Application of GTE Corp. and Southern Pac. Co. for Consent to Transfer Control of Southern Pac. Satellite Co., Memorandum Opinion and Order, 94 FCC 2d 235, 262-63 (1983) (conditioning GTE's acquisition of Southern Pacific Satellite Co. upon integration of Hawaii).

[101] *In re* Referral of Questions from General Communications Inc. v. Alascom Inc., Memorandum Opinion and Order, 2 FCC Rcd 6479, 6481 (1987) ("The rate integration policy was developed to provide, in phased reductions, interstate MTS and WATS service to and from Alaska at rates comparable to those prevailing in the contiguous states for calls of similar distance, duration, and time of day.").

U.S. regions, including Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands. We remain committed to [that] polic[y].[102]

48. In the NPRM, we noted that the legislative history of the 1996 Act indicates that Congress intended us to incorporate into our rules the policy contained in the 1976 *Integration of Rates and Services Order*.[103] We proposed to implement Section 254(g) by adopting a rule stating that "a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State."[104]

b. Comments

49. Alaska and Hawaii contend that the 1996 Act codifies the Commission's established rate integration policy and applies it to all interexchange carriers and services.[105] They argue that the Commission should promulgate rules formalizing its prior pronouncements on rate integration.[106] They also contend that the Commission should not forbear in any respect from enforcing rate integration.[107]

50. IXCs urge the Commission to forbear from applying rate integration to nondominant IXCs, or to IXCs in competitive conditions.[108] AT&T, for example, argues that the Commission should maintain flexible integration rules with exceptions, or should forbear from requiring rate integration in certain circumstances.[109] Sprint argues the Commission should move cautiously before issuing its rate integration policy to ensure that the new rules do not inhibit competition or cause IXCs to withdraw services.[110] If the Commission chooses not to forbear, Sprint contends that integration rules should only require carriers to integrate

---

[102]*See In re* Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, 11 FCC Rcd 3271, 3330 (1995) (AT&T Non-Dominance Order).

[103]NPRM ¶ 76.

[104]*Id.*

[105]Alaska Comments at ii, 8-9; Hawaii Comments at iii, 1-2, 6-7.

[106]Alaska Comments at ii, 8-9; Hawaii Comments at iii, 1-2.

[107]Alaska Comments at 10; Hawaii Reply Comments at 18.

[108]AT&T Comments at 33-42; Sprint Comments at 25; MCI Reply comments at 21-22.

[109]AT&T Comments at 32-42.

[110]Sprint Comments at 24.

"offshore" points into at least one unified rate structure for a particular service, perhaps by adding one or more mileage bands.[111] ACTA, Columbia Long Distance Services Inc. (CLDS), GTE, and IT&E urge the Commission to forbear from applying rate integration to small providers of interexchange service in high-cost areas, arguing that they would be unable to compete with nationwide carriers that can charge lower rates by spreading their costs over a larger customer base.[112]

51. American Mobile Satellite Carriers Subsidiary Corp. (AMSC) points out that the Commission permitted it to charge higher rates for mobile satellite services to Alaska and Hawaii than for similar services in the mainland U.S. because the costs of mobile satellite service vary, unlike fixed satellite costs, and that it should be permitted to continue to do so.[113]

c. Discussion

52. To implement the statutory requirements of Section 254(g), we will adopt our proposed rule that "a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State." As with geographic rate averaging, this rule will incorporate our existing policies. This rule will apply to all domestic interstate interexchange telecommunications services as defined in the 1996 Act, and all providers of such services. As with our geographic rate averaging policy, carriers may comply with this rule by establishing reasonable mileage bands for calls. We are not persuaded that we must forbear from requiring carriers to comply with rate integration, either generally or in competitive conditions, for the same reasons discussed with respect to geographic rate averaging. Our rate integration policy has integrated offshore points into the domestic interstate interexchange rate structure so that the benefits of growing competition for interstate interexchange telecommunications services, as well as regulatory and other developments concerning interstate services, are available throughout our nation. Furthermore, absent forbearance, the statute requires us to incorporate our 1976 *Integration of Rates and Services Order* requiring

[111]*Id.* at 25-26.

[112]*See* ACTA Comments at 10-11 (stating that rate integration would disproportionately burden smaller carriers serving high-cost areas, and that the Commission should account for these concerns in its rules or forbear); CLDS Comments at 7-9 (arguing that integration's below-cost rates would discourage new carriers from entering the Guam and Northern Marianas markets); GTE Comments at 21 (arguing that small regional carriers with a limited calling base and high costs would have difficulty competing under integration against carriers with lower costs and larger customer bases over which to spread these costs); IT&E Comments at 20-21 (arguing that larger carriers can spread the costs for service to Guam and the Northern Marianas among their customers nationwide, but smaller carriers will be unable to subsidize below-cost rates mandated by rate integration).

[113]AMSC Comments at 2-3 (citing *In re* AMSC Subsidiary Corp., Order, 8 FCC Rcd 2871 (1993)).

geographic rate integration.

53. We are also not persuaded that we should forbear from applying rate integration to smaller carriers serving high-cost areas on the grounds that they might have difficulty competing against nationwide carriers. These carriers have provided only conclusory allegations of harm and have not shown that they will be unable to compete with larger carriers in a rate-integrated environment, much less that they have satisfied all three of the requirements set forth in Section 10 for exercise of our forbearance authority. Thus, these carriers have failed to make a showing on this record justifying forbearance.[114]

54. We believe that AMSC is required by the plain terms of the 1996 Act to integrate the rates charged for its offshore service into the rate structure for its mainland rates. Further, as with rate averaging, we interpret Section 254(g) to extend to all providers of interexchange service the rate integration policy that previously was applied only to AT&T.[115] AMSC's services would appear to fall within the definition of interstate interexchange telecommunications services subject to Section 254(g). The decision referred to by AMSC was a Bureau decision that permitted an AMSC tariff to take effect without any finding of lawfulness.[116] It did not establish any policy of excluding AMSC services from rate integration. Accordingly, we reject AMSC's arguments on this issue.

2. U.S. Territories and Possessions

a. Background

55. In the NPRM, we noted that "State" is defined in the Communications Act to include all U.S. territories and possessions.[117] Thus, we noted that the 1996 Act extends rate integration to U.S. territories and possessions, including Guam and the Northern Marianas, because rate integration obligations apply to providers of interexchange services between "states."[118] We proposed "to adopt a rule requiring that 'a provider of interstate interexchange

---

[114]*See* 47 U.S.C. § 160.

[115]Our rate integration policy also had applied to carriers that served offshore points such as GTE and Alascom. *See, e.g., In re* Application of GTE Corp., 94 FCC 2d 235, 258-60 & 263 (1983); *In re* Application of Alascom Inc., 11 FCC Rcd 732, 743-48 (1995).

[116]*In re* AMSC Subsidiary Corp., Order, 8 FCC Rcd 2871 (1993).

[117]NPRM ¶ 77 (citing 47 U.S.C. § 153(40)).

[118]U.S. territories and possessions are: Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Marianas, American Samoa, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, the Midway Atoll, Navassa Island, the Palmyra Atoll, and Wake Island. As U.S. territories and possessions, they fall within

telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.'"[119] We sought comment on appropriate mechanisms to implement rate integration to U.S. Territories and possessions that currently are not subject to our rate integration policy.[120] In addition, on June 5, 1996, the Chief of the Common Carrier Bureau requested the governors of Guam, the Northern Marianas, and American Samoa, as well as all carriers who provide interexchange service to those locations, to submit within two weeks a plan for implementing Section 254(g) with respect to those locations.[121]

b. Comments, Responses to Bureau Letters, and the Working Group

56. IXCs who offer services primarily, or exclusively, in Guam and the Northern Marianas generally support the Commission's proposed rate integration rule, but urge the

---

the definition of "state" in the Communications Act of 1934, as amended, and carriers that serve those points are required under Section 254(g) and our rules to do so on a rate-integrated basis with service provided to other states. Of these locations, Puerto Rico and the U.S. Virgin Islands are already rate integrated. *See In re* Integration of Rates and Services, Memorandum Opinion, Order and Authorization, 61 FCC 2d 380, 392 (1976) (ordering AT&T to implement full rate and service integration for all services it provides to Hawaii, Alaska, Puerto Rico and the Virgin Islands). Of the other U.S. territories and possessions, only Guam, the Northern Marianas, and American Samoa have more than *de minimis* interstate interexchange telecommunications traffic that originates or terminates in the 50 states or other U.S. territories and possessions. *See* INDUSTRY ANALYSIS DIVISION, FCC, 1994 SECTION 43.61: INTERNATIONAL TELECOMMUNICATIONS DATA tbl. A1 (1996).

Starting in 1947, the United States administered the United Nations Trust Territories of the Pacific Islands, consisting of the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Northern Marianas. In negotiations over the last decade concerning the future status of these political entities, the Northern Marianas elected commonwealth status as a territory of the United States. The Marshall Islands, Micronesia, and Palau became independent, sovereign nations on October 21, 1986, November 3, 1986, and October 1, 1994, respectively, electing to enter into a Compact of Free Association with the United States. *See* 48 U.S.C.A. Ch. 14, refs. & annos.; Temengil v. Trust Territory of the Pacific Islands, 881 F.2d 647, 650-51 (9th Cir. 1989). Thus, Palau, the Federated States of Micronesia, and the Marshall Islands are not "states" within the meaning of that term in the Communications Act of 1934 to which carriers would be required to provide service on a rate-integrated basis.

[119] NPRM at ¶ 76 (quoting 47 U.S.C. § 254(g), as amended).

[120] *Id.* at ¶ 77.

[121] *See* Letters from Regina M. Keeney, Common Carrier Bureau Chief, to Mark Sisk, Counsel to the Governor of American Samoa; Robert F. Kelley Jr., Advisor to the Governor of Guam; Thomas K. Crowe, Counsel for the Commonwealth of the Northern Mariana Islands; David W. Carpenter, Counsel to AT&T Corp.; Raul R. Rodriguez, Counsel to CLDS.; Gail L. Polivy, Senior Attorney for GTE Services Corp.; Margaret L. Tobey, Counsel to IT&E Overseas Inc.; Donna N. Lampert, Counsel to JAMA Corp.; Donald J. Elardo, Director of Regulatory Law for MCI Telecommunications Corp.; Eric Fishman, Counsel to PCI Communications Inc.; and Leon M. Kestenbaum, Vice President of Regulatory Affairs for Sprint Corp. (June 5, 1996.)

Commission to delay implementing rate integration for a variety of reasons.[122] IT&E, for example, urges a delay until Guam and the Commonwealth of Northern Mariana Islands are served by domestic satellites, rather than as now by INTELSAT, which costs almost four times as much as domestic satellites.[123] GTE contends that rate integration must be implemented slowly because its wholly owned affiliate, the Micronesian Telecommunications Company (MTC), cannot compete with nationwide providers of interexchange service that can offer lower prices by spreading their costs over a larger customer base.[124] CLDS asserts that rate integration for Guam and the Northern Marianas is "fundamentally inconsistent" with the Commission's rationale for requiring rate integration to Alaska, Hawaii, Puerto Rico, and the Virgin Islands, which CLDS says was the availability of domestic satellite service to those points.[125]

57. The Governor of Guam and the Guam Telephone Authority (GTA), in comments filed jointly, and the Governor of the Northern Marianas, claim that the Commission is required by statute to mandate rate integration for Guam and the Northern Marianas and may not forbear from implementing that mandate.[126] Guam also rejects CLDS's claim that rate integration should not be extended to Guam and the Northern Marianas because these territories are not served by domestic satellites. Guam asserts that "nothing in the [1996 Act] limits [rate integration] only to those points that can be reached by domestic satellite."[127] The Northern Marianas further notes that, although the Commission has stated that the availability of domestic satellites was a "catalyst" for integrating rates to Hawaii and Alaska, the Commission explicitly held that "implementation of rate integration does not, and cannot, depend on the actual use of domestic satellite facilities."[128] Hence, the Northern Marianas argues, the Commission has made clear that distance insensitivity is not a

[122]GTE Comments at 13-14, 21-22; IT&E Comments at 1-2, 14-15; JAMA Corp. Comments at 2-3.

[123]IT&E Comments at 15-20; GTE Comments at 20 (monthly charges for INTELSAT are $35,880 while similar rate for domestic satellite service is $9,920).

[124]*See, e.g.*, GTE Comments at 21.

[125]CLDS Comments at 4-7.

[126]Guam and the GTA Joint Reply Comments at 4-5 (Guam Joint Reply); Northern Marianas Reply Comments at 9-13*; see also* Guam PUC Comments at 2 (rate integration critical for Guam). The Northern Marianas also notes that the Commission did not propose to forbear or seek comment on forbearance with respect to rate integration. Northern Marianas Reply Comments at 9 n.20.

[127]Guam Joint Reply Comments at 6. Guam also notes that, in fact, Intelsat satellites provide distance insensitive service to Guam. Guam Joint Reply Comments at 7.

[128]Northern Marianas Reply Comments at 8 (quoting *In re* Integration of Rates and Services, Memorandum Opinion, 62 FCC 2d 693, 695 (1976)).

prerequisite for the implementation of rate integration.[129]

58. IXCs also argue that rate integration should apply only to the standard interexchange service package.[130] Guam and the Northern Marianas oppose this proposal.[131] The Northern Marianas argue that the 1996 Act unambiguously requires all services provided by an IXC to be subject to rate integration.[132] Guam claims that carriers are required to provide MTS and private line services at integrated and averaged rates, and, although carriers may offer promotions and discounts, carriers should not exclude Guam from any service that is offered on a nationwide basis.[133]

59. In response to the Bureau's request for rate integration plans, Guam (jointly with the GTA) and the Northern Marianas propose that the Commission adopt rate integration rules that would take effect immediately but permit providers of interexchange service to implement rate integration after Guam and the Northern Marianas become part of the North American Numbering Plan (NANP) and are provided Feature Group D's "1+" equal access dialing.[134] Guam also suggests that integration take place concurrently with GTA's adoption of cost-based interstate access charges.[135] All three events are scheduled to occur by July 1, 1997.[136] Guam also proposes allowing carriers to offer integrated rates by expanding existing mileage bands, creating new mileage bands, or using postalized rates.[137] Furthermore, Guam suggests that the Commission designate Comsat, as well as carriers providing domestic interstate service on non-Intelsat facilities, as eligible telecommunications carriers so that they can receive universal service support funding.[138] American Samoa believes that its "people

---

[129] *Id.* at 7-8.

[130] Cable and Wireless Comments at 5-6; Frontier Comments at 8-9; TRA Comments at 29.

[131] Guam Joint Reply Comments at 8; Northern Marianas Reply Comments at 17-18.

[132] Northern Marianas Reply Comments at 17.

[133] Guam Joint Reply Comments at 8.

[134] *See* Letter from the Governor of Guam and the GTA to Regina M. Keeney, Chief of the Common Carrier Bureau 3-4 (June 20, 1996); Letter from Thomas K. Crowe, Counsel for the Commonwealth of the Northern Mariana Islands, to Regina M. Keeney, Chief of the Common Carrier Bureau 3 (June 19, 1996).

[135] Letter from the Governor of Guam, at 3-4.

[136] *See id.* at 3 (June 20, 1996); Letter from Thomas K. Crowe, at 3 (June 19, 1996).

[137] *See* Letter from the Governor of Guam, at 2 (June 20, 1996).

[138] *See id.* at 6-7.

enjoy excellent long distance service at reasonable rates," and did not submit a plan because it has "concluded that [it has] already achieved the benefits of rate integration."[139]

60. In response to the Common Carrier Bureau's request for rate integration plans, none of the interexchange service providers presents detailed integration plans.[140] AT&T states that it cannot do so because Guam and the Northern Marianas are not yet part of the North American Numbering Plan, and because it has not decided whether to add a new mileage band or extend its longest existing rate band.[141] MCI states that it cannot yet provide a plan detailing exact rates and services because it does not want to disclose proposed rates to potential competitors.[142] PCI and IT&E argue that the request for a rate proposal is premature because the Commission has not yet adopted rate averaging and rate integration rules.[143]

61. Sprint, MCI, and IT&E state they would integrate Guam and the Northern Marianas into their existing interstate interexchange rate structures after July 1997, when Guam and the Northern Marianas are scheduled to become part of NANP.[144] Sprint states it will include Guam and the Northern Marianas by creating one or two additional mileage bands.[145] Sprint states that it expects to offer service at rates significantly lower than existing rates offered by other carriers, provided that the GTA lowers its access charges to levels

---

[139]Letter from A.P. Lutali, Governor of American Samoa, to Regina M. Keeney, Chief of the Common Carrier Bureau 1-2 (June 12, 1996).

[140]*See* Letter from R. Gerard Salemme, Vice President of Government Affairs for AT&T, to Regina M. Keeney, Chief of the Common Carrier Bureau (June 19, 1996); Letter from Raul R. Rodriguez and David S. Keir, Counsel to CLDS, to Regina M. Keeney, Chief of the Common Carrier Bureau (June 21, 1996); Letter from Gail Polivy, Attorney for GTE Service Corp., to Regina M. Keeney, Chief of the Common Carrier Bureau (June 20, 1996); Letter from Margaret L. Tobey and Phuong N. Pham, attorneys for IT&E Overseas Inc., to Regina M. Keeney, Chief of the Common Carrier Bureau (June 19, 1996); Letter from Donald J. Elardo, Director of Regulatory Law for MCI, to Regina M. Keeney, Chief of the Common Carrier Bureau (June 19, 1996); Letter from Eric Fishman, Counsel for PCI Communications Inc., to Regina M. Keeney, Chief of the Common Carrier Bureau (June 19, 1996); Letter from Leon M. Kestenbaum, Vice President of Regulatory Affairs for Sprint, to Regina M. Keeney, Chief of the Common Carrier Bureau (June 19, 1996).

[141]*See* Letter from R. Gerard Salemme, at 2.

[142]Letter from Donald J. Elardo, at 2.

[143]Letter from Eric Fishman, at n.1; Letter from Margaret L. Tobey, at 1.

[144]Letter from Leon M. Kestenbaum, at 2; Letter from Donald J. Elardo, at 1-2; Letter from Margaret L. Tobey, at 2-3 (June 19, 1996).

[145]Letter from Leon M. Kestenbaum, Vice President of Regulatory Affairs for Sprint, to Regina M. Keeney, Chief of the Common Carrier Bureau 2 (June 19, 1996).

comparable to those of similar LECs that serve subscribers on the U.S. mainland.[146] MCI states it will either extend its longest existing band or create a new band to include Guam and the Northern Marianas.[147] PCI and IT&E contend that they are not subject to Section 254(g) because the statute applies only to national carriers that provide service to subscribers in multiple states.[148] PCI and IT&E also argue that in any event their current rate schedules are fully integrated because they originate services only from Guam and the Northern Marianas.[149]

62. GTE asserts that the existing rate structure of its affiliate, MTC, already complies with rate integration because it only originates traffic from the Northern Marianas and bases its rates on the cost of routing calls through expensive international satellites.[150] GTE further argues that the statutory language requiring "each such provider" to integrate rates for "its subscribers" does not give the Commission authority to require MTC to integrate its rates with other affiliates of GTE.[151] Instead, according to GTE, each affiliate constitutes a separate provider within the meaning of the statute.[152]

63. AT&T opposes reclassifying service to Guam, the Northern Marianas, and American Samoa as "domestic" rather than "international" because it could lead foreign carriers to claim that these locations are entry points for calls to subscribers in the United States, thereby increasing AT&T's costs for delivering those calls to destinations on the U.S. mainland.[153]

64. On July 8 and 9, 1996, the Guam/Northern Marianas Working Group on Rate Integration, consisting of representatives of the Governors of Guam and the Northern

---

[146]Letter from Leon M. Kestenbaum, at 3.

[147]Letter from Donald J. Elardo, Director of Regulatory Law for MCI, to Regina M. Keeney, Chief of the Common Carrier Bureau 1-2 (June 19, 1996).

[148]Letter from Eric Fishman, Counsel for PCI Communications Inc., to Regina M. Keeney, Chief of the Common Carrier Bureau 2 (June 19, 1996); Letter from Margaret L. Tobey and Phuong N. Pham, attorneys for IT&E Overseas Inc., to Regina M. Keeney, Chief of the Common Carrier Bureau 4 (June 19, 1996).

[149]Letter from Eric Fishman, at 2; Letter from Margaret L. Tobey, at 4.

[150]Letter from Gail Polivy, Attorney for GTE Service Corp., to Regina M. Keeney, Chief of the Common Carrier Bureau 7 (June 20, 1996).

[151]*Id.* at 2-3.

[152]*Id.*

[153]*See* Letter from R. Gerard Salemme, Vice President of Government Affairs for AT&T, to Regina M. Keeney, Chief of the Common Carrier Bureau 3 (June 19, 1996).

Marianas, and the carriers that provide interexchange service to those points, met in Washington, D.C., to discuss the implementation of Section 254(g) for services provided to Guam and the Northern Marianas.[154] The Working Group adopted seven substantive resolutions that it believes should guide rate integration for these offshore points:

> Rate integration should involve the incorporation of Guam and the Northern Marianas into the domestic rate pattern for message telephone service (MTS). Each provider of interstate interexchange telecommunications services should establish rates consistent with its rate-making methodology used for that service elsewhere in the United States, in compliance with the Act;
>
> As far as practicable, implementation of rate integration should be contingent upon the inclusion of Guam and the Northern Marianas within the North American Numbering Plan and conversion to equal access and cost-based interstate access tariffs (currently anticipated on or about 1 July 1997);
>
> It is not possible to determine at this time whether support mechanisms for rate integrated services will be required to meet the goals of the [1996 Telecommunications] Act. Accordingly, if required, support mechanisms should be addressed after the release of the FCC ruling on rate integration and in the context of the notice of proposed rulemaking and order establishing the Universal Service Joint Board (CC Docket No. 96-45);
>
> Each provider of interstate interexchange telecommunications services, other than MTS, to the extent those services are offered between Guam or the Northern Marianas and any other state, should establish rates consistent with its rate-making methodology used for those services elsewhere in the United States, in compliance with the Act;
>
> The implementation of rate integration should not discourage flexibility and competitive responses among interstate

[154] *See* Letter from Robert F. Kelley, Advisor to the Governor of Guam, and Dave Ecret, Special Assistant to the Governor of the Northern Mariana Islands, to William F. Caton, Secretary to the Federal Communications Commission, at Appendix A (July 9, 1996). Present were representatives from the Northern Marianas, Guam, PCI Communications Inc., the GTA, NECA, Sprint, Sprint Guam, MCI, IT&E Overseas Inc., Coopers & Lybrand, GTE/MTC, and the Guam Public Utilities Commission. *Id.* at Appendix A. Although invited, AT&T was not present. *Id.* Commission staff also attended the meetings as observers.

telecommunications providers serving Guam or the Northern Marianas;

Optional calling plans, promotions, or discounts will be offered to subscribers in Guam and the Northern Marianas in compliance with the Act;

None of these Resolutions shall supersede any provisions of the Act, or limit or restrict the authority of the Federal Communications Commission under the Act.[155]

65. The Working Group plans to meet again in late August to continue to work towards rate integration in light of requirements adopted by the Commission to implement Section 254(g).[156]

c. Discussion

66. In making the Section 254(g) rate integration provision applicable to interstate interexchange services provided between "states," as defined in the Communications Act,[157] Congress made rate integration applicable to interexchange services provided to U.S. possessions and territories, including Guam, the Northern Marianas, and American Samoa. Further, rate integration applies to all interstate interexchange telecommunications services as defined in the Communications Act.[158] Accordingly, under our rate integration rule implementing 254(g), providers of interexchange service to these points must do so on an integrated basis with services they provide to other states.

67. We believe that the resolutions the Working Group adopted regarding rate integration for Guam and the Northern Marianas provide a reasonable framework to guide carriers towards implementing rate integration. Thus, a carrier should establish rates for services provided to Guam and the Northern Marianas consistent with the rate methodology it employs for services it provides to other states. Similarly, to the extent that a provider of interexchange service offers optional calling plans, contract tariffs, discounts, promotions, and private line services to its subscribers on the mainland, it should use the same ratemaking methodology and rate structure when offering those services to its subscribers in Guam or the

---

[155]*Id.* at Appendix B.

[156]*Id.* at 2.

[157]*See* 47 U.S.C. § 153(40).

[158]*See* 47 U.S.C. § 153(22), as amended (defining "interstate communication"), and § 153(46), as amended (defining "telecommunication service").

Northern Marianas. In addition, we do not view rate integration as inconsistent with flexibility and competitive responses by carriers, although carriers must continue to comply with rate integration requirements for these offshore points. We also agree with the Working Group that cost support and universal service issues should be addressed in the first instance by the Universal Service Joint Board.[159] Guam has specifically raised these issues in CC Docket No. 96-45.[160] Accordingly, we will address those issues in the context of any Joint Board recommendation. For purposes of our decision today, however, we do not view establishment of cost-support mechanisms as a precondition of rate integration. Nor have they been justified on the present record. Thus, we reject requests that we establish, or further consider, any cost-support mechanisms in this docket.

68. The Working Group resolutions urge that rate integration for services provided to Guam and the Northern Marianas should take place concurrently with, or shortly after, the inclusion of Guam and the Northern Marianas into the NANP, the implementation of Feature Group D service, and the GTA's revision to its access charge structure. All three events are expected to occur by July 1, 1997. We do not view these developments as preconditions for rate integration of services provided to these points. Rather, the statute requires rate integration regardless of whether these developments occur. However, we believe that these developments will facilitate rate integration. Inclusion of Guam and the Northern Marianas in the NANP will help carriers integrate them into their nationwide service plans. Implementation of Feature Group D will provide subscribers with high-quality equal access to providers of interexchange service serving Guam. Revision of access charges by GTA will help providers of interexchange service set final rate schedules for service to and from Guam. Accordingly, we require providers of interexchange service to integrate services offered to subscribers in Guam and the Northern Marianas with services offered in other states no later than August 1, 1997. We additionally require that carriers submit preliminary plans to achieve rate integration no later than February 1, 1997, and final plans no later than June 1, 1997. These plans will permit the Commission to review progress toward achieving rate integration, as required by the 1996 Act. The preliminary plans need not include rates, but at a minimum should resolve service and rate-band issues. Final plans shall include a rate schedule. Carriers may integrate these points by expanding mileage bands, adding mileage bands, offering postalized rates, or other means that achieve rate integration. We also require that any rate changes between the adoption date of this Report and Order and August 1, 1997, must be consistent with achieving rate integration by August 1, 1997. We also believe that it would facilitate resolution of any further regulatory issues concerning rate integration for these points if the Common Carrier Bureau addresses them in the first instance. Accordingly,

[159] *See* Letter from Robert F. Kelley, Advisor to the Governor of Guam, and Dave Ecret, Special Assistant to the Governor of the Northern Mariana Islands, to William F. Caton, Secretary to the Federal Communications Commission, at Appendix B (July 9, 1996).

[160] Guam Reply Comments in CC Docket No. 96-45, at 5-7.

we will delegate to the Chief, Common Carrier Bureau, authority to resolve any issues concerning carriers' plans for rate integration for these offshore points.

69. We reject GTE's view that Section 254(g) does not require MTC to integrate rates with other GTE affiliates. The statute mandates that the Commission require rate integration among all states, territories, and possessions, and this goal is best achieved by interpreting "provider" to include parent companies that, through affiliates, provide service in more than one state. Moreover, nothing in the record supports a finding that Congress intended to allow providers of interexchange service to avoid rate integration by establishing or using their existing subsidiaries to provide service in limited areas. Thus, we determine that GTE, for the purposes of Section 254(g), constitutes a "provider" of interexchange services within the meaning of that section, and that it must integrate rates across affiliates. Accordingly, we require GTE to comply with the same timetable and requirements as the other carriers serving the Northern Marianas and Guam.

70. We reject the contentions of PCI and IT&E that they are not subject to the rate-integration obligation. As noted, Section 254 applies to all providers of interexchange service. Therefore, PCI & IT&E must provide Guam and the Northern Marianas service on a rate-integrated basis. Based on the present record, however, there is insufficient evidence to evaluate whether PCI's and IT&E's rates for service originating in Guam and the Northern Marianas comply with Section 254(g). Consequently, we will also require PCI and IT&E to abide by the same timetable and requirements as the other carriers serving the Northern Marianas and Guam. They may demonstrate with more particularity that their current rates comply with rate integration when they submit their plans.

71. Although carriers serving American Samoa are required to provide service on a rate-integrated basis, American Samoa has stated that it believes that rates for services provided to American Samoa are already rate integrated. Nevertheless, we will also direct providers of interexchange service serving American Samoa to submit plans for American Samoa in order to ensure that they will comply with the statute. To the extent services are provided to other U.S. possessions and territories by carriers subject to Section 254(g), the record does not reflect what carriers serve some of these points, such as Wake Island and Midway Island, or whether service is provided in special ways, such as in cooperation with military authorities, that might affect provision of service on a rate-integrated basis to these points. Accordingly, we are directing the Common Carrier Bureau to investigate service arrangements for these points and to take such steps as are necessary to assure compliance with Section 254(g) by August 1, 1997.

72. We also believe that AT&T's concerns about termination of foreign traffic in Guam, the Northern Marianas, and American Samoa do not justify delaying rate integration. Our decision to extend rate integration to Guam is intended to benefit U.S. consumers. We do not by this decision, however, affect the classification or treatment of the underlying costs

of facilities between these offshore points and other U.S. points for purposes of interconnection arrangements with foreign carriers.

73. Our requirement that carriers implement rate integration by August 1, 1997, complies with Section 254(g). That section requires us to adopt rules requiring rate integration for Guam, the Northern Marianas and American Samoa by August 8, 1996. We do not read this provision as mandating rate integration for all points by that date. Instead, we interpret the statute to permit a reasonable transition period for the offshore points to which our rate integration policy is being applied for the first time.

D. AT&T'S COMMITMENTS

1. Background

74. In the 1995 *AT&T Reclassification* proceeding, AT&T committed, for three years, to give five days' advance notice before adopting new geographically deaveraged tariffs for interstate residential direct dial services.[161] AT&T also committed that it would continue to comply with Commission orders regarding rate integration between the contiguous forty-eight states and Alaska, Hawaii, Puerto Rico, and the Virgin Islands.[162] The NPRM proposed that AT&T would be subject to the new rules adopted by the Commission and released from its commitments when the new rules are adopted.

2. Comments

75. AT&T believes that the rules adopted in this proceeding "will supersede AT&T's existing commitments in those areas."[163] AT&T also notes that, although its rate integration commitments with respect to Alaska "would technically continue in effect, AT&T assumes that the policy adopted here will also apply in Alaska."[164] MCI believes that AT&T should not be bound by any commitments "other than those that may arise from this proceeding and apply equally to all non-dominant carriers."[165]

76. Hawaii argues that AT&T's commitment to provide five days' notice is not the

---

[161]*See In re* Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, 11 FCC Rcd 3271, 3333-34, 3349 (1995) (AT&T Non-Dominance Order).

[162]*See id.*

[163]AT&T Comments at 28 n.52.

[164]*Id.*

[165]MCI Comments at 36.

issue.[166] Instead, the State asserts that because Congress reaffirmed the goal of universal service, AT&T cannot be relieved of its commitment to offer geographically averaged residential direct dial service to Hawaii.[167] Alaska, too, claims that the question of whether AT&T's commitments continue in effect is not significant. Rather, the more important issue is that providers of interexchange service should not be permitted to deaverage their rates "regardless of how much notice is given."[168]

77. The Northern Marianas argues that AT&T should be required to comply with the 1996 Act, which requires integration with Guam and the Northern Marianas, rather than with the commitments, which do not commit AT&T to integrate rates with Guam and the Northern Marianas.[169]

3. Discussion

78. The rules we adopt in this proceeding will require AT&T to provide interexchange service at geographically averaged and integrated rates. We believe these requirements incorporate the Commission's existing rate averaging and rate integration policies and, thus, should supersede the commitments AT&T made in the *AT&T Reclassification* proceeding concerning rate averaging and rate integration. Accordingly, we release AT&T from its commitments to continue to comply with the Commission's orders regarding rate integration and to file any tariff containing a geographically deaveraged rate on five business days' notice. We do not release AT&T from its more specific commitments concerning Hawaii and Alaska.[170] Nonetheless, AT&T is affirmatively bound by the rules we establish in this Report and Order, and by our prior opinions, rules and orders on geographic rate averaging and rate integration, which the rules incorporate.

IV. FINAL REGULATORY FLEXIBILITY ANALYSIS

79. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603 (RFA), we incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the Notice of Proposed Rulemaking in this proceeding (NPRM). The Commission sought written public comments on the proposals in the NPRM, including on the IRFA. The Commission's Final

[166]Hawaii Comments at 13-14.

[167]*Id.*

[168]Alaska Comments at 8.

[169]Northern Marianas Comments at 13-14.

[170]*See, e.g., In re* Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, 11 FCC Rcd 3271, 3333-34 & n. 329 (1995) (AT&T Non-Dominance Order).

Regulatory Flexibility Analysis (FRFA) in this Report and Order conforms to the RFA, as amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996).[171]

80. Need for and purposes of this action: The Commission promulgates the rules in this Report and Order to implement Section 254(g) of the Communication Act of 1934, as amended by the Telecommunications Act of 1996. In accordance with Section 254(g), our implementing rules will:

> require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.[172]

The objective of these rules is "to incorporate the policies of geographic rate averaging and rate integration of interexchange services in order to ensure that subscribers in rural and high cost areas throughout the Nation are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers."[173]

81. Description and estimate of small entities affected: The Regulatory Flexibility Act defines "small entity" to include the definition of "small business concern" under the Small Business Act, 15 U.S.C. § 632.[174] Under the Small Business Act, a "small business concern" is one that (1) is independently owned and operated, (2) is not dominant in its field of operation, and (3) meets any additional criteria established by the Small Business Administration (SBA).[175] Our geographic averaging and rate integration rules will apply to all providers of interexchange service. The SBA has not developed a definition of small entities specifically applicable to providers of interexchange service. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone

---

[171] Subtitle II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. § 601 *et seq.*

[172] *In re* Policy and Rules Concerning the Interstate, Interexchange Marketplace, NPRM, CC Docket No. 96-61, FCC 96-123 (rel. March 25, 1996).

[173] *See* H.R. REP. NO. 458, 104th Cong., 2d Sess. 132 (1996) (joint explanatory statement).

[174] *See* 5 U.S.C. § 601(6) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632).

[175] *See* 15 U.S.C. § 632(1)(a).

(wireless) companies. According to SBA regulations, a telephone communications company other than a radiotelephone company is a small business concern if it has fewer than 1,500 employees.[176]

82. The most relevant employee data available from the SBA does not enable us to make a meaningful estimate of the number of providers of interexchange service that are small entities because it is based upon a 1992 Census of Transportation, Communications, and Utilities survey from which we can only calculate the average number of people employed by various-sized telephone entities other than radiotelephone companies.[177] Based on a Commission staff report entitled *Long Distant Market Shares: Fourth Quarter, 1995*, however, we estimate that approximately 500 carriers provide interexchange service.[178] Some of these carriers are not independently owned and operated, or have more than 1,500 employees. Consequently, we estimate that our geographic averaging and rate integration rules will apply to less than 500 "small entities." We are unable on the present record to estimate with more particularity how many of these entities would be considered small for the purposes of the Regulatory Flexibility Act.

83. Summary of public comments on the Initial Regulatory Flexibility Analysis: No comments specifically addressed the Commission's initial regulatory flexibility analysis. However, a number of associations that represent, at least to some extent, the interests of small telecommunications providers, generally supported the Commission's proposed rules to implement geographic averaging and rate integration.[179] Other commenters asserted that these rules would harm small regional providers of interexchange service in high-cost areas, arguing that such providers would be unable to compete with nationwide carriers that can charge lower rates by spreading their costs over a larger customer base.[180] A few suggested that

---

[176]*See* 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4813.

[177]*See* BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, 1992 CENSUS OF TRANSPORTATION, COMMUNICATIONS, AND UTILITIES: ESTABLISHMENT AND FIRM SIZE, tbl. 4 (1995) (Revenue Size of Firms: 1992, SIC Code 4813).

[178]*See* INDUSTRY ANALYSIS DIVISION, FEDERAL COMMUNICATIONS COMMISSION, LONG DISTANCE MARKET SHARES: FOURTH QUARTER 1995, at 3 (1996).

[179]*See* CompTel Comments at 7; RTC Comments at 3; TRA Comments at 29*; see also* USTA Comments at 2-4 (expressing support for codification of the Section 254(g)'s language on rate averaging, but not discussing rate integration).

[180]*See* ACTA Comments at 7-9 (arguing that the access charges interexchange providers pay vary, that rate averaging would disproportionately burden smaller carriers serving high-cost areas, and that the Commission should account for these concerns in its rules, require access charges and other provider costs to be averaged, or forbear); MFS Communications Comments at 8-10 (arguing that the Commission should forbear from applying rate averaging requirements to carriers with less than 5 percent of the nation's access and presubscribed lines

subsidies or other support mechanisms might alleviate their concerns.[181] The record in this proceeding does not show that small interexchange service providers will be disproportionately harmed by implementation of rate integration. The practical impact of our rules will be to require all providers of interexchange service, including those that are small entities, to set rates on a geographically averaged and rate-integrated basis.

84. Summary of reporting, recordkeeping and other compliance requirements: To comply with this Report and Order, carriers must charge rural and high-cost area customers for interexchange service no more than they charge urban customers,[182] and must charge customers for such services in one state no more than they charge customers in any other state.[183] The NPRM proposed requiring providers of interexchange telecommunications services to file certifications that they were complying with these requirements in the event the Commission decides to mandate permissive detariffing of interexchange services.[184] We will consider later in this proceeding what enforcement mechanisms may be necessary to support geographic averaging and rate integration when the Commission addresses the detariffing issue. We have proposed a requirement that AT&T, Sprint, MCI, IT&E, GTE, and PCI submit preliminary plans no later than February 1, 1997, to achieve rate integration of Guam, the Northern Marianas, American Samoa, and other offshore points, and final plans no later than June 1, 1997.[185] The preliminary plans need not include rates, but at a minimum should resolve service and rate-band issues. Final plans shall include a rate schedule. Carriers already have in place their own individualized rate schedules, which they have

---

because such carriers have smaller customer bases over which to spread their costs, which are often higher than those of larger carriers, frequently because of high access charges in low-volume markets.); ACTA Comments at 10-11 (incorporating its geographic averaging comments, on the contention that rate integration raises nearly identical concerns for smaller carriers); CLDS Comments at 7-8 (arguing that integration's below-cost rates would discourage new carriers from entering the Guam and Northern Mariana markets); GTE Comments at 21 (arguing that small regional carriers with a limited calling base and high costs would have difficulty competing under integration against carriers with lower costs and larger customer bases over which to spread these costs); IT&E Comments at 20-22 (arguing that larger carriers can spread the costs for service to Guam and the Northern Marianas among their customers nationwide, but smaller carriers will be unable to subsidize below-cost rates mandated by rate integration).

[181] *See* IT&E Comments at 20-22 & n.40; Letter from the Governor of Guam and the GTA to Regina M. Keeney, Chief of the Common Carrier Bureau 6-7 (June 20, 1996).

[182] *See supra* ¶¶ 2, 9.

[183] *See supra* ¶¶ 2, 47, 52.

[184] *In re* Policy and Rules Concerning the Interstate, Interexchange Marketplace, NPRM, CC Docket No. 96-61, FCC 96-123, at ¶ 70 (rel. Mar. 25, 1996).

[185] *See supra* ¶¶ 68-70.

presumably tailored to the areas they provide service. Consequently, carriers' staff preparing the preliminary and final plans will likely need no special skills other than general familiarity with the new rate schedules that these entities are planning, or have chosen, to adopt to comply with the rate averaging and rate integration requirements.

85. Steps taken to minimize, consistent with statutory objectives, impact on small businesses: Section 254(g) reflects a congressional determination that the country's higher-cost, lower-volume markets should share in the technological advances and increased competition characteristic of the nation's telecommunications industry as a whole, and that interexchange rates should be provided throughout the nation on a geographically averaged and rate- integrated basis. As noted above, we have decided that the statutory objectives of Section 254(g) require us to apply our rules to all providers of interexchange service, including small ones.[186] We have chosen, however, to allow carriers to offer private line service and temporary promotions on a deaveraged basis.[187] In so doing, we have minimized the impact our rules might otherwise have had, and enable carriers to use such devices to enter new markets.

86. Significant alternatives considered and rejected: The Commission considered and rejected several significant alternatives. We could have reduced burdens on small carriers by exempting them from compliance through forbearance. However, we do not believe that forbearing at this time would be consistent with the congressional goals that underlie Section 254(g).[188] We could also have reduced burdens on small carriers by establishing cost-support mechanisms. However, the present record does not justify any such cost-support mechanisms.[189] Accordingly, we decline to adopt these alternative measures for small carriers.

87. Report to Congress: The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

V. FINAL PAPERWORK REDUCTION ANALYSIS

88. We have decided to require AT&T, Sprint, MCI, IT&E, GTE, and PCI to submit preliminary and final plans to achieve rate integration of Guam, the Northern

[186] *See supra* ¶¶ 3, 9, 38-40, 52-54, 66, 69-70.

[187] *See supra* ¶¶ 21-30.

[188] *See supra* ¶¶ 31-32, 38-40, 52-53.

[189] *See supra* ¶ 67.

Marianas, and American Samoa by August 1, 1997.[190] The requirement of these plans constitutes a new "collection of information," within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3520. Implementation of these requirements will be subject to approval by the Office of Management and Budget as prescribed by the Paperwork Reduction Act.

VI. ORDERING CLAUSES

89. Accordingly, IT IS ORDERED that pursuant to authority contained in sections 1, 4(i), 10, 201-205, 214(e), 215 and 254(g) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 160, 201-205, 214(e) and 254(g), Part 64 of the Commission's rules are Amended as set forth in Appendix B hereto.

90. IT IS FURTHER ORDERED that the policies, rules and requirements set forth herein ARE ADOPTED.

91. IT IS FURTHER ORDERED that the policies, rules and requirements adopted herein SHALL BE EFFECTIVE 30 days after publication in the Federal Register.

92. IT IS FURTHER ORDERED that with respect to interexchange services provided between any U.S. state, territory or, possession and Guam, the Northern Marianas, or American Samoa, AT&T, GTE, MCI, Sprint, PCI, and IT&E shall:

(1) submit to the Commission no later than February 1, 1997, preliminary plans to achieve rate integration by August 1, 1997, with respect to those points; and

(2) submit to the Commission no later than June 1, 1997, final plans to achieve rate integration by August 1, 1997, with respect to those points.

93. IT IS FURTHER ORDERED that AT&T is released from the commitments it made in the *AT&T Reclassification* proceeding concerning rate averaging and rate integration, as described herein.

94. IT IS FURTHER ORDERED that the Chief, Common Carrier Bureau, is delegated authority to resolve any regulatory issues concerning implementation of rate integration for offshore points consistent with this Report and Order. The Common Carrier Bureau is directed to investigate service arrangements for offshore points, as discussed in paragraph 71, and to take such steps as are necessary to ensure compliance with Section 254(g), by August 1, 1997, for such offshore points.

---

[190] *See supra* ¶¶ 68-70.

Federal Communications Commission

William F. Caton
Acting Secretary

Appendix A - List of Parties
(CC Docket No. 91-61)

Comments filed on or before April 19, 1996
in response to Notice of Proposed Rulemaking

Alabama Public Service Commission (Alabama PSC)
Alaska
America's Carriers Telecommunication Association (ACTA)
American Petroleum Institute
American Public Communications Council
Ameritech
American Mobile Satellite Carriers Subsidiary Corp. (AMSC)
AT&T
Bell Atlantic
BellSouth Corp.
Cable & Wireless Inc.
Collins, Frank
Columbia Long Distance Services Inc. (CLDS)
Competitive Telecommunications Association (CompTel)
Florida Public Service Commission (Florida PSC)
Frontier Corp.
General Communications Inc.
General Services Administration
GTE Service Corp.
Guam, Governor of, and the Guam Telephone Authority (GTA), jointly
Guam Public Utilities Commission (Guam PUC)
Hawaii
Hunter, Gerald
Iowa Utilities Board
IT&E Overseas Inc.
JAMA Corp.
John Staurulakis Inc.
LDDS Worldcom Inc.
Lee, Paul
Loflin, Kevin
MCI
MFS Communications Co.
Missouri Public Service Commission (Missouri PSC)
National Association of Regulatory Utility Commissioners (NARUC)
Northern Mariana Islands
NYNEX

Ohio, Public Utilities Commission of (Ohio PUC)
Ohio Consumers' Counsel (OCC)
Orlic, Peggy
Pacific Telesis Group
Pennsylvania Office of Consumer Advocate
Rural Telephone Coalition (RTC)
SBC Communications Inc.
Scherers Communications Group
Southern New England Telephone Co.
Sprint Corp.
Stark, Kristine
Sussman, Michael
TCA Inc.
TDS Telecommunications Corp.
Telecommunications Resellers Association (TRA)
United States Telephone Association (USTA)
US West Inc.
Vanguard Cellular Systems Inc.
Ward, Harvey William
Washington Utilities and Transportation Commission (Washington UTC)
Zankle Worldwide Telecom

Late-filed Comments

Louisiana Public Service Commission (Louisiana PSC) (filed April 22, 1996)
Pennsylvania Public Utility Commission (Pennsylvania PUC) (filed April 22, 1996)

Reply Comments filed
on or before May 3, 1996

Alaska
ALLTEL Corporate Services Inc.
Ameritech
AT&T
Bell Atlantic
BellSouth Corp.
Citizens Utilities Co.
Competitive Telecommunications Association (CompTel)
General Communications Inc.
General Services Administration
GTE Service Corp.
Guam, Governor of, and the Guam Telephone Authority (GTA), jointly

Guam Public Utility Commission (Guam PUC)
Hawaii
IT&E Overseas Inc.
LDDS WorldCom Inc.
MCI
MFS Communications Co.
New York Department of Public Service (New York DPS)
Northern Mariana Islands
NYNEX Telephone Cos.
Ohio Consumers' Counsel (OCC)
PCI Communications Inc.
Rural Telephone Coalition (RTC)
SBC Communications Inc.
Sprint Corp.
United States Telephone Association (USTA)
US West Inc.
Vanguard Cellular Systems Inc.

Late-filed Reply Comments

Telecommunications Resellers Association (TRA) (May 6, 1996)

Appendix B

Amendments to the Code of Federal Regulations

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 64 -- MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, unless otherwise noted.

2. Subpart R is Added to Part 64 to read as follows:

Subpart R -- Geographic Rate Averaging and Rate Integration

§ 64.1801 Geographic rate averaging and rate integration.

Authority: 47 U.S.C. §§ 151, 154(i), 201-205, 214(e), 215 and 254(g)

Subpart R -- Geographic Rate Averaging and Rate Integration

§ 64.1801 Geographic rate averaging and rate integration.

(a) The rates charged by providers of interexchange telecommunications services to subscribers in rural and high-cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas.

(b) A provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each U.S. state at rates no higher than the rates charged to its subscribers in any other state.